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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 843

[Docket ID: OPM–2026–0367]

RIN 3206–AP12

Federal Employees' Retirement System; Present Value Conversion Factors for Spouses of Deceased Separated Employees

AGENCY: Office of Personnel Management.

ACTION: Direct final rule.

SUMMARY: The Office of Personnel Management (OPM) is revising the table of reduction factors for early commencing dates of survivor annuities for spouses of separated employees who die before the date on which they would be eligible for unreduced deferred annuities. The annuity factor for spouses of deceased employees who die in service when those spouses elect to receive the basic employee death benefit in 36 installments under the Federal Employees' Retirement System (FERS) Act of 1986 remains unchanged.

DATES: This rule is effective August 24, 2026, unless significant adverse comments are received by July 23, 2026. If significant adverse comments are received, OPM will publish a timely withdrawal of the rule in the **Federal Register** and issue a notice of proposed rulemaking.

ADDRESSES: You may submit comments on the Federal eRulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments. All comments must be received by the end of the comment period for them to be considered. All comments and other submissions received generally will be posted on the internet at *regulations.gov* as they are received, without change, including any personal information provided. However, OPM retains discretion to redact personal or sensitive information, including but not limited to personal or sensitive information pertaining to third parties.

As required by 5 U.S.C. 553(b)(4), a summary of this rule may be found in the docket for this rulemaking at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kristopher Rogers, (202) 606–0299 or *RetirementPolicy@opm.gov.*

SUPPLEMENTARY INFORMATION: In this issue of the **Federal Register**, OPM is publishing a notice with revised normal cost percentages under the Federal Employees' Retirement System (FERS) Act of 1986, Public Law 99–335, 100 Stat. 514, as amended, based on economic assumptions and demographic factors adopted by the Board of Actuaries of the Civil Service Retirement System. By statute under 5 U.S.C. 8461(i), the revisions to the actuarial assumptions require corresponding changes in factors used to produce actuarially equivalent benefits when required by the FERS Act. There are two sets of factors in this direct final rule: (1) Basic Employee Death Benefit Factors, which did not change, and (2) Early Commencing of Survivor Annuities Factors, which were revised. Additionally, one column was removed from the factor table below. The following paragraphs summarize these changes.

Basic Employee Death Benefit Factors

Section 843.309 of title 5, Code of Federal Regulations, regulates the payment of the basic employee death benefit. Under 5 U.S.C. 8442(b), the basic employee death benefit may be paid to a surviving spouse as a lump sum or as an equivalent benefit in 36 installments. In its meeting on June 16, 2025, the Board of Actuaries of the Civil Service Retirement System (the Board) reviewed the long-term economic assumptions and determined that they should remain unchanged; therefore, the factors used to convert the lump sum to 36-installment payments under 5 CFR 843.309(b)(2) will remain unchanged.

Early Commencement of Survivor Annuities Factors

Section 843.311 of title 5, Code of Federal Regulations, regulates the benefits for the survivors of separated employees under 5 U.S.C. 8442(c). This section provides a choice of benefits for eligible current and former spouses. If the current or former spouse is the person entitled to the unexpended balance under the order of precedence under 5 U.S.C. 8424, he or she may elect to receive the unexpended balance instead of an annuity. If the separated employee died before having attained the minimum retirement age, the annuity commences on the day the deceased separated employee would have been eligible for an unreduced annuity as specified under this section. If the current or former spouse instead elects to receive an adjusted annuity earlier, beginning on the day after the death of the separated employee, the annuity is actuarially reduced to compensate for it being paid at an earlier date, and is reduced using the factors in appendix A to subpart C of 5 CFR part 843 to make the annuity actuarially equivalent to the present value of the annuity that the spouse or former spouse otherwise would have received. This reduces the risk of any unfunded liability to the Civil Service Retirement and Disability Fund. These revisions amend appendix A to subpart C of 5 CFR part 843 to conform the factors to the revised actuarial assumptions.

Removal of the ''1950 Through 1966'' Column

In addition to amending the factors, OPM also edited the table titled ''With at least 30 years of creditable service.'' The current table is separated into two columns. One column containing factors for individuals born after 1966 and a second column containing factors for individuals born from 1950 through 1966. The second column, for individuals born from 1950 through 1966, has been removed because individuals born before 1966 have already reached their minimum retirement age. Since the purpose of these factors is to reduce annuities when a separated employee dies before attaining the minimum retirement age, the factors for individuals born from 1950 through 1966 are unnecessary.

30-Day Comment Period

OPM has determined that a 30-day period for comments on this direct final rule is sufficient to allow for meaningful public input. These revisions to appendix A to subpart C of part 843 are necessary under 5 U.S.C. 8461(i). Under section 8461(i) and 5 CFR part 841, subpart D, OPM is required to make

changes to the factors used to produce actuarially equivalent benefits under the FERS Act whenever the Board of Actuaries established under 5 U.S.C. 8347(f) revises related actuarial assumptions. In June 2025, the Board of Actuaries made such revisions. Accordingly, OPM must now implement these revisions and is proposing the corresponding changes, which must go into effect on the first day of the fiscal year.

Expected Impact of This Rule

OPM is issuing this direct final rule to revise the table of reduction factors for early commencing dates of survivor annuities for spouses of separated employees who die before the date on which they would be eligible for unreduced deferred annuities. The current factors can be found in appendix A to subpart C of 5 CFR part 843.

Of all the applications for survivor annuity death benefits OPM receives annually, OPM expects this rule to impact approximately one percent of those survivor annuity death applications it receives that are based on the death of a separated employee. Of the changes this rule implements, the most significant change is to conform the factors to the revised actuarial assumptions when the current or former spouse elects to receive an adjusted annuity beginning on the day after the death of the separated employee. The annuity is reduced using the factors in appendix A to subpart C of 5 CFR part 843 to make the annuity actuarially equivalent to the present value of the annuity that the spouse or former spouse otherwise would have received. When OPM updates the FERS normal cost, the FERS law at 5 U.S.C. 8461(i) requires that OPM make corresponding changes to the factors used to produce actuarially equivalent benefits under FERS. Specifically, this rule is needed to revise the present value conversion factors for certain benefits payable under FERS to current and former spouses of deceased separated employees. This rule allows certain survivors to make choices about what benefits they want to receive and, in some instances, when they want the benefits to begin. Considering the small number of survivor annuities affected, OPM does not anticipate this rule will substantially impact local economies or have a large impact in local labor markets.

Regulatory Compliance

1. Notice and Comment

Although 5 U.S.C. 553(b) and 1105 and 1103(b)(1) generally require OPM to seek comment on certain rules, the requirement for comment is not required when OPM for good cause finds that comment is unnecessary. 5 U.S.C. 553(b)(B). The amendments made by this rule are statutorily mandated. Providing a comment period on the result of mathematical computations resulting from the changed actuarial assumptions is unnecessary and, to the extent that it would delay benefit payments, is contrary to the public interest. Furthermore, OPM historically has not received comments on previous iterations of this rulemaking.

2. Regulatory Review

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 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 rule was not designated as a ''significant regulatory action'' under Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget (OMB). Therefore, this rule is not an Executive Order 14192 regulatory action because it is not significant under Executive Order 12866.

3. Regulatory Flexibility Act

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

4. Federalism

This rulemaking will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the Director of OPM certifies that this rulemaking does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

5. Civil Justice Reform

This regulation meets the applicable standards set forth in section 3(a) and (b)(2) Executive Order 12988.

6. Unfunded Mandates Reform Act of 1995

This rule 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 and it 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.

7. Congressional Review Act

The Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs has determined that this is not a ''major rule'' as defined by the Congressional Review Act (5 U.S.C. 804(2)). OPM will submit to Congress and the Comptroller General of the United States a report regarding the issuance of this action.

8. Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid OMB Control Number.

This rule involves an OMB approved collection of information subject to the PRA titled ''Application for Death Benefits (FERS)/Documentation and Elections in Support of Application for Death Benefits when Deceased was an Employee at the Time of Death (FERS),'' OMB Control Number 3206–0172. The public reporting burden for this collection is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total burden hour estimate for this form is 16,751 hours. The system of record notice for this collection is: OPM SORN CENTRAL–1 Civil Service Retirement and Insurance Records.

List of Subjects in 5 CFR Part 843

Air traffic controllers, Disability benefits, Firefighters, Government employees, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Alexys Stanley,

Federal Register Liaison Officer.

For the reasons stated in the preamble, the Office of Personnel

Management amends 5 CFR part 843 as follows:

PART 843—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DEATH BENEFITS AND EMPLOYEE REFUNDS

■ 1. The authority citation for part 843 continues to read as follows:

Authority: 5 U.S.C. 8461; 843.205, 843.208, and 843.209 also issued under 5 U.S.C. 8424; 843.309 also issued under 5 U.S.C. 8442; 843.406 also issued under 5 U.S.C. 8441.

Subpart C—Current and Former Spouse Benefits

■ 2. Revise appendix A to subpart C of part 843 to read as follows:

Appendix A to Subpart C of Part 843—Present Value Conversion Factors for Earlier Commencing Date of Annuities of Current and Former Spouses of Deceased Separated Employees

With at least 10 but less than 20 years of creditable service—

Age of separated employee at birthday before death	Multiplier
26	0.0924
27	0.0979
28	0.1036
29	0.1098
30	0.1164
31	0.1234
32	0.1310
33	0.1388
34	0.1476
35	0.1567
36	0.1663
37	0.1780
38	0.1902
39	0.2036
40	0.2168
41	0.2318
42	0.2477
43	0.2643
44	0.2820
45	0.3010
46	0.3216
47	0.3432
48	0.3667
49	0.3922
50	0.4195
51	0.4489
52	0.4804
53	0.5143
54	0.5510
55	0.5911
56	0.6346
57	0.6822
58	0.7342
59	0.7910
60	0.8537
61	0.9231

With at least 20, but less than 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier
36	0.1962
37	0.2098
38	0.2240
39	0.2395
40	0.2551
41	0.2725
42	0.2910
43	0.3104
44	0.3310
45	0.3532
46	0.3772
47	0.4025
48	0.4299
49	0.4596
50	0.4914
51	0.5257
52	0.5625
53	0.6021
54	0.6451
55	0.6919
56	0.7429
57	0.7986
58	0.8595
59	0.9263

With at least 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier
46	0.4736
47	0.5052
48	0.5393
49	0.5762
50	0.6158
51	0.6585
52	0.7045
53	0.7541
54	0.8079
55	0.8665
56	0.9303

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DEPARTMENT OF LABOR

Office of the Secretary of Labor

29 CFR Part 38

RIN 1291–AA47

Rescission of Affirmative Outreach Requirements for Recipients of WIOA Title I Financial Assistance

AGENCY: Office of the Secretary, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor (Department) rescinds the regulatory affirmative outreach requirements on recipients of financial assistance under Title I of the Workforce Innovation and Opportunity Act (WIOA) and makes conforming edits.

DATES: Effective July 24, 2026.

FOR FURTHER INFORMATION CONTACT: Naomi Barry-Perez, Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N–4123, Washington, DC 20210. Telephone: (202) 693–6500 (voice) (this is not a toll-free number). If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

I. Background

Section 188 of the Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. 3248 (Section 188), establishes nondiscrimination requirements for programs and activities receiving financial assistance under Title I of WIOA.

Subsection (a)(1) of Section 188 provides that, for the purpose of applying prohibitions against discrimination on the basis of age, disability, sex, or race, color, or national origin, WIOA-funded programs are to be treated as programs receiving Federal financial assistance under the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (Section 504), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*) (Title IX), and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) (Title VI). 29 U.S.C. 3248(a)(1). Subsection (a)(2) prohibits discrimination in WIOA Title I programs on the basis of race, color, religion, sex, national origin, age, disability, or political affiliation or belief. 29 U.S.C. 3248(a)(2). Finally, subsection (e) directs the Secretary of Labor to issue regulations that adopt standards for determining discrimination and procedures for enforcement that are consistent with the Acts referred to in subsection (a)(1).

Pursuant to subsection (e), in 2016, the Department promulgated 29 CFR 38.40, which requires recipients of WIOA Title I financial assistance to ''take appropriate steps to ensure that they are providing equal access to their WIOA Title I-financially assisted programs and activities,'' which should involve ''reasonable efforts'' to conduct affirmative outreach to different demographic groups, ''including but not limited to persons of different sexes, various racial and ethnic/national origin groups, various religions, individuals with limited English proficiency, individuals with disabilities, and individuals in different age groups.'' The rule provided examples of outreach efforts that recipients might undertake. ''Recipients'' are defined in 29 CFR 38.4(zz) as entities to which financial

assistance under Title I of WIOA is extended, directly from the Department or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient).

On July 1, 2025, the Department proposed to rescind 29 CFR 38.40 on the grounds that it exceeded statutory authority. Rescission of Affirmative Outreach Requirements for Recipients of WIOA Title I Financial Assistance, 90 FR 28245 (proposed July 1, 2025). The Department was further concerned that a government mandate to conduct affirmative outreach based on race and ethnicity creates tension with the Constitution's Equal Protection principles. *Id.* Voluntary outreach programs would still be permitted under the Department's proposal.

II. Discussion

The Department received 84 comments on the proposed rule. Eighty-three commenters opposed rescission, including national and local disability rights organizations, civil rights groups, a labor union, and advocacy organizations. Several commenters represent organizations that are engaged by WIOA recipients to assist with or perform affirmative outreach activities mandated by the current regulation. These commenters argued that affirmative outreach is necessary to ensure meaningful nondiscrimination, contending that without affirmative efforts many individuals will never learn of or benefit from WIOA-funded services. After reviewing and carefully considering all comments, as well as considering alternatives to rescission, the Department has decided to finalize the rescission as proposed because it concludes that it lacks statutory authority to enforce an affirmative outreach provision.

A. The Department's Statutory Authority

Several commenters contended that WIOA's statement of purpose, 29 U.S.C. 3101(1), reflects a congressional goal of increasing access to workforce-development services for individuals with barriers to employment, and that this goal supports interpreting Section 188 to authorize mandatory affirmative outreach requirements based on race, sex, religion, disability status, and other demographic characteristics.

The Department does not dispute that WIOA's purpose clause expresses broad and aspirational objectives, nor does it question that recipients remain free to undertake voluntary outreach efforts that further those objectives. However, a statutory statement of purpose does not itself confer regulatory authority. Courts have repeatedly rejected efforts to derive legal authority from general purpose provisions.[1]

Accordingly, WIOA's purpose clause cannot expand the scope of the Department's authority beyond the specific delegation contained in the Act's operative provisions. The Department's authority to promulgate regulations is limited to Section 188, which does not reference or mandate outreach. Other operative provisions within the statute do reference or mandate outreach, and comparing these provisions demonstrate that Congress knew how to require affirmative outreach when it intended to do so; its omission of such language in Section 188 is instructive.[2]

Here, the operative provision is Section 188, which prohibits unlawful discrimination and directs the Department to adopt standards for determining unlawful discrimination and procedures for enforcement that are consistent with four enumerated civil-rights statutes: the Age Discrimination Act of 1975 (age), Section 504 of the Rehabilitation Act of 1973 (disability), Title IX of the Education Amendments of 1972 (sex), and Title VI of the Civil Rights Act of 1964 (race, color, or national origin). Under the majority of those statutes, the standard for a determination of unlawful discrimination is intentional disparate treatment, and none of them mandate affirmative conduct such as proactive outreach to address perceived imbalances in access among protected groups.

Because section 188(e) requires the Department's regulatory standards for determining discrimination to be consistent with those statutes, the Department lacks authority to treat the absence of affirmative outreach efforts as a new form of unlawful discrimination. Under the best reading of section 188(e), the Department's authority is confined to the same definitions of discrimination that apply under Title VI, Title IX, Section 504, and the Age Discrimination Act. Nothing in WIOA's text authorizes the Department to redefine unlawful discrimination to include failure to undertake affirmative outreach efforts toward ''persons of different sexes, various racial and ethnic/national origin groups, various religions, individuals with limited English proficiency, individuals with disabilities, and individuals in different age groups,'' as former § 38.40 requires.

Commenters also argued that affirmative outreach is necessary to give practical effect to Section 188's nondiscrimination protections because individuals with barriers to employment may not otherwise learn of WIOA services. The Department disagrees. Nondiscrimination and outreach are distinct concepts. Recipients may fully comply with Section 188 by refraining from differential treatment on prohibited grounds, without undertaking the outreach activities described in former § 38.40. Although outreach may advance broader workforce-development goals and may be beneficial in practice, the Department cannot redefine nondiscrimination to require proactive measures absent statutory authorization.

Nothing in this final rule prevents recipients of WIOA Title I financial assistance from voluntarily engaging in outreach to broaden awareness of their programs, and the Department anticipates that many recipients will continue to do so. Such voluntary efforts may be useful tools to promote inclusivity and to raise awareness regarding the availability of WIOA services, as some commenters have suggested. Indeed, the Department itself conducts outreach, particularly with respect to American workers with disabilities, and permits and encourages recipients to use WIOA funds to recruit program participants, such as individuals with low-income status or limited English proficiency. The sole question addressed here is whether Section 188 authorizes the Department to enforce such practices as a matter of law. For the reasons stated above, it does not. The decision whether and how to conduct affirmative outreach rests with recipients, not with the Department. The Department

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[1] *Yazoo & M.V.R. Co.* v. *Thomas,* 132 U.S. 174, 188 (1889); *Ass'n of Am. R.R.s* v. *Costle,* 562 F.2d 1310, 1316 (D.C. Cir. 1977); Antonin Scalia & Brian Garner, *Reading Law: The Interpretation of Legal Texts,* 217 (2012) (''[A] congressional expression of purpose has as much real-world effect as a congressional expression of apology.'').

[2] As some commenters, such as CommunicationFIRST, have noted, the word ''outreach'' is referenced in other parts of WIOA. For example, 29 U.S.C. 3111(d)(3)(C) requires States to develop ''strategies for providing effective outreach to and improved access for individuals and employers who could benefit from services provided through the workforce development system.'' But this merely demonstrates that Congress knows how to enact an outreach requirement—and when it did, Congress framed mandatory outreach in term of ''access for individuals,'' and not demographic groups as § 38.40 does. In any event, Congress did not include any outreach requirement in WIOA's nondiscrimination provisions and instead directed the Department to issue regulations consistent with civil rights statutes that define unlawful discrimination in terms of intentional or deliberate conduct, not the absence of affirmative conduct. *See Southeastern Community College* v. *Davis* 442 U.S. 397, 405, 410–11 (1979) (comparing provisions of the Rehabilitation Act of 1973 and finding distinctions purposeful).

considered revising § 38.40 instead of rescinding it but determined that any revision would still give the appearance of requiring affirmative outreach to particular demographic groups and would not cure the lack of support in the operative provision of the authorizing statute. By rescinding § 38.40, the Department ensures that recipients remain free to adopt outreach strategies best suited to their circumstances, without being subject to coercive regulation that lacks statutory foundation and risks constitutional conflict.

B. Equal Protection Principles

The NPRM expressed concern that mandating affirmative outreach may create tension with equal-protection principles. For instance, § 38.40 requires recipients to consider race and ethnicity when designing outreach efforts and thus may trigger strict scrutiny. The canon of constitutional avoidance therefore reinforces the Department's conclusion to interpret section 188 not to mandate recipients to engage in race-conscious affirmative outreach.

Several commenters, including the NAACP and AFL–CIO, asserted that § 38.40 is race-neutral because it applies uniformly to all protected groups listed in the regulation and does not require recipients to give a preference to any particular demographic group. These commenters argued that the provision merely requires broad dissemination of information and does not impose differential treatment based on race, sex, national origin, or any other protected characteristic.

The Department disagrees that the regulation, which explicitly states that recipients ''must take appropriate steps'' that ''should involve reasonable efforts to include members of . . . various racial and ethnic/national origin groups,'' is race-neutral. That formulation inherently directs recipients to identify racial and ethnic categories and to structure their outreach efforts with reference to race and ethnicity. A regulatory requirement that turns on racial classifications is not rendered neutral simply because it does not single out one group for disparate treatment. If, in an effort to comply with § 38.40, a WIOA recipient targets outreach to a particular racial group that would otherwise not have been targeted, that is a race-conscious decision resulting from a government mandate. A regulation requiring affirmative outreach to ''various racial . . . groups'' is therefore race-conscious.[3]

Nor does the fact that the regulation concerns outreach rather than, for example, admission or hiring, render it race neutral, as some courts have suggested. *See Peightal* v. *Metro Dade Cnty.,* 26 F.3d 1545, 1557–58 (11th Cir. 1994) (characterizing in dicta as ''race neutral'' the city's policy to ''provide information to and solicit applications from young minorities''). Indeed, NAACP's comment quotes approvingly to language in Justice Kennedy's concurrence in *Parents Involved in Community Schools* v. *Seattle School District No. 1* recognizing that an outreach policy to attract students and faculty of different races ''in a targeted fashion'' would be ''race conscious.'' 551 U.S. 701, 789 (2007) (Kennedy, J., concurring).

To be sure, NAACP correctly notes that Justice Kennedy's concurrence continued to state that such race-conscious outreach ''is unlikely [to] demand strict scrutiny,'' *id,* and certain lower court decisions have agreed.[4] Those cases, however, did not involve a federal mandate requiring regulated entities to tailor outreach based on demographic categories that include race and ethnicity. The D.C. Circuit applied strict scrutiny to one such mandate and held it unconstitutional in *MD/DC/DE Broadcasters Association* v. *FCC.*[5] Although the rule at issue in that that case explicitly incentivized recruitment for women and minorities and involved additional requirements beyond outreach alone—including reporting and enforcement—the Department need not resolve whether those distinctions would ultimately be constitutionally significant here. Rather, the canon of constitutional avoidance counsels against interpreting Section 188 to authorize a race-conscious regulatory mandate that raises constitutional concerns in the first instance. *See Edward J. DeBartolo Corp.* v. *Fla. Gulf Coast Bldg. & Constr. Trades Council,* 485 U.S. 568, 575 (1988) (''[W]here an otherwise acceptable construction of a statute would raise serious constitutional problems, the Court will construe the statute to avoid such problems unless such construction is plainly contrary to the intent of Congress.'' (citing *NLRB* v. *Catholic Bishop of Chi.,* 440 U.S. 490, 499–501, 504 (1979)).

Several commenters, including ASAN, the NAACP, and NPWF, argued that the Department's reliance in the NPRM on *Students for Fair Admissions* v. *Harvard* is misplaced because that decision arose in the context of higher-education admissions.[6] The Department agrees that *SFFA* involved a different factual context. Nonetheless, the decision reaffirmed the broader constitutional principle that race-conscious governmental requirements are subject to strict scrutiny. The Court declared without qualification that ''[r]acial classifications are simply too pernicious to permit any but the most exact connection between justification and classification.''[7] Section 38.40 requires recipients to consider race and ethnicity when developing outreach policy and therefore constitutes a race-conscious governmental requirement.

To be clear, the Department does not opine on the ultimate constitutionality of such a mandate. Rather, the Department interprets Section 188 in a manner that avoids that constitutional question, particularly where that interpretation is supported by the best reading of the statutory text. Any potential conflict between § 38.40 and equal-protection principles is not an independent basis for rescission but instead reinforces the Department's conclusion that Section 188 does not authorize mandatory affirmative outreach. Of course, voluntary outreach efforts to the groups listed at section 38.40 remain permissible and often encouraged.

C. Effects of Rescission

Some commenters expressed concern that rescinding § 38.40 will reduce awareness of WIOA Title I services among individuals with disabilities, individuals with limited English proficiency, displaced homemakers, returning citizens, and other individuals facing barriers to employment. These commenters provided data showing disparities between groups in employment and WIOA participation. However, they did not offer analysis demonstrating that these disparities are caused by, or would be exacerbated by, the absence of mandatory outreach requirements.

As a general matter, the Department believes commenters' predictions of practical effects are overstated because recipients remain free to engage in voluntary outreach efforts to the

[3] The same logic applies with respect to other protected characteristics: sex, religion, disability status, etc. The degree of constitutional scrutiny for sex and disability status is different for race and religion. But a requirement to conduct outreach to different sexes is still obviously sex-conscious.

[4] *See Allen* v. *Alabama State Bd. of Educ.,* 164 F.3d 1347 (11th Cir. 1999), *vacated,* 216 F.3d 1263 (11th Cir. 2000); *Shuford* v. *Ala. State Bd. of Educ.,* 897 F. Supp. 1535, 1551–52 (M.D. Ala. 1995).

[5] *MD/DC/DE Broadcasters Ass'n* v. *FCC,* 236 F.3d 13 (D.C. Cir. 2001), *cert. denied,* 534 U.S. 1113 (2002).

[6] *See* 600 U.S. 181 (2023).

[7] *Id.* at 217 (quoting *Gratz* v. *Bollinger,* 539 U.S. 244, 270 (2003)).

aforementioned groups. Moreover, since the adoption of § 38.40 in 2016, the Department has not initiated a single enforcement action predicated on a recipient's failure to conduct affirmative outreach. Given that the mandate has not been enforced in practice, the Department does not expect that rescission will disrupt recipients' operations or materially alter the delivery of WIOA services.

Several disability-rights organizations—including The Arc, ASAN, PACER Center, CommunicationFIRST, and Detroit Disability Power—argued that individuals with disabilities often face unique and significant barriers to learning about available workforce services. The Department acknowledges that outreach can serve important programmatic purposes and that individuals with disabilities and other groups may face substantial challenges in accessing information about available services. The Department agrees that recipients may communicate proactively with these communities to promote awareness of WIOA opportunities. Nothing in this final rule prevents such outreach. Recipients retain full discretion to continue, expand, or redesign their current outreach efforts, including outreach specifically intended to engage individuals with disabilities, individuals with limited English proficiency, and others. Recipients may also continue to partner with disability organizations, schools, VR agencies, and other community-based entities should they choose to do so.

As noted previously, the Department itself through its Office of Disability Employment Policy (ODEP) regularly conducts outreach to job seekers with disabilities, promoting services available through the public workforce system. ODEP funds two WIOA technical assistance centers, the National Center on Leadership for the Employment and Economic Advancement of People with Disabilities (LEAD Center) and the Center for Advancing Policy on Employment for Youth (CAPE-Youth). These centers provide training to workforce system staff to build their knowledge in successfully serving jobseekers with disabilities in a variety of career pathways and conduct outreach directly to individuals with disabilities. ODEP also administers initiatives that require contractors and grantees to connect individuals to the workforce system. For example, the Retaining Employment and Talent after Injury/Illness Network (RETAIN) demonstration grants recruits and helps thousands of ill or injured workers remain in the workforce by providing coordinated health and employment services delivered through the workforce system. The National Expansion of Employment Opportunities Network (NEON) initiative conducts outreach to and connects individuals with intellectual and developmental disabilities (I/DD) and those with mental health conditions to workforce, education, developmental disabilities, and Medicaid systems. However, the question under section 188(e) is whether the Department is authorized to mandate such outreach as a legal requirement of nondiscrimination. As explained elsewhere in this preamble, the Department has concluded that section 188(e) incorporates the definitions of discrimination contained in Title VI, Title IX, Section 504, and the Age Discrimination Act. None of these statutes has been interpreted to define unlawful discrimination to include a failure to perform proactive outreach to particular demographic groups. Accordingly, even though outreach may be permissible and beneficial in some instances when performed on a voluntary basis, Section 188 does not provide the Department with the legal authority to enforce such outreach.

Commenters expressed concern that eliminating § 38.40 may undermine coordination between WIOA programs and other programs such as state VR agencies, youth transition programs, TANF programs, or adult-education providers. Commenters pointed to WIOA provisions that encourage or require coordination across programs and argued that outreach obligations help support these statutory expectations.

The Department appreciates the importance of coordination across workforce and education systems and encourages recipients to continue collaborating with VR and other partner programs. This rescission does not diminish or alter recipients' statutory duties under other provisions of WIOA. Recipients must still comply with Titles I–IV, the implementing regulations, and joint guidance concerning referrals, coordination, and integrated service delivery. Recipients remain free to use outreach as a tool to fulfill these other statutory duties. The rescission simply clarifies that the Department cannot impose an additional nondiscrimination requirement that mandates outreach obligations under Section 188. Indeed, many of the Department's grant programs, include unemployment, poverty, or low-income status as eligibility criteria for participants and awardees. Furthermore, State Workforce Agencies, State Workforce Boards, American Job Centers (AJCs), and WIOA funding recipients regularly engage in outreach activities to reach different categories of people which often include high-unemployment or low-income participants. And 2 CFR 200.421 specifically allows grantees to use funds to recruit program participants and to engage businesses by communicating with them. The AJC brand itself was created to increase program awareness of the services the public workforce system offers and to facilitate outreach. This WIOA program is delivered through AJCs nationwide and there are approximately 2,400 AJCs, all of which provide the public a one-stop-shop for employment services.

Some commenters—including Chicago Jobs Council, PACER, and NCLD—asserted that § 38.40 provides helpful ''clarity'' and ''a framework'' for recipients, and that removing it could create uncertainty regarding how recipients should ensure equal access. Commenters argued that rescission may increase recipients' compliance burden by eliminating explicit examples of outreach practices.

The Department acknowledges that § 38.40 supplied a non-exhaustive list of outreach activities that recipients ''might undertake.'' However, § 38.40 imposed a federal mandate to conduct outreach with reference to protected demographic categories, and for the reasons described elsewhere, the Department lacks statutory authority to impose such a requirement. Recipients retain broad flexibility to design outreach strategies that fit their operational needs and may continue to use any practices previously informed by § 38.40. Because the rescission removes a federal mandate rather than prohibiting outreach, the Department concludes that the rescission does not impose new burdens on recipients.

D. Other Concerns

Several commenters asserted that the Department did not adequately justify its departure from the 2016 rule. They argued that the 2016 interpretation reflected a permissible reading of Section 188 and that the NPRM did not provide a sufficient reason to adopt a different view. The Department disagrees. The NPRM acknowledged the change from the 2016 rule and explained that, upon further review of section 188(e) and the four statutes it incorporates, the Department now concludes that those statutes do not authorize the Department to mandate proactive outreach. After *Loper Bright,* agencies must adopt the ''best reading''

of statutory text rather than rely on judicial deference or custom. The Department has determined that the best reading of Section 188 confines its authority to standards consistent with the four referenced statutes, none of which defines discrimination to include failure to undertake affirmative outreach. The Department therefore has a reasoned basis for its change in position.

Several commenters, including PACER and Chicago Jobs Council, argued that the Department failed to consider reliance interests allegedly created by the 2016 rule, including reliance by recipients, state workforce agencies, disability-rights organizations, and outreach partners.

The Department disagrees. Recipients remain free to continue affirmative outreach activities on a voluntary basis, including collaborations with community organizations and targeted dissemination of information. The only effect of this rule is that recipients are no longer compelled to structure outreach around protected classifications. Because recipients retain full discretion to continue the very practices on which commenters claim to rely, the rescission does not impair any legitimate reliance interest. Moreover, reliance interests cannot expand an agency's statutory authority. Even if some entities preferred the 2016 approach, the Department may not preserve a regulatory requirement that exceeds the limits Congress established in section 188(e).

E. Summary of Revisions

For the foregoing reasons, the Department is rescinding 29 CFR 38.40 in its entirety. The Department is also making the following conforming edits to remove references to § 38.40: Removing the phrase ''consistent with § 38.40'' from § 38.31(e); Removing § 38.54(c)(1)(v), which requires a State's nondiscrimination plan to describe how it complies with the affirmative outreach requirements at § 38.40; and Revising § 38.54(c)(2)(viii)(F) to say ''§§ 38.34 through 38.39'' instead of ''§§ 38.34 through 38.40.''

III. Procedural Issues and Regulatory Review

A. Executive Orders 12866, 13563, and 14192

Among other requirements, Executive Order 12866 requires agencies to submit ''significant regulatory actions'' to the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) for review. *See* 58 FR 51735 (Oct. 4, 1993). Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as a regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more, or adversely affect in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create 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 forth in the Executive Order. OIRA has determined that this rule does not constitute a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, this rule was not submitted to OIRA for review under E.O. 12866.

Executive Order 13563 directs agencies to, among other things, propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; the regulation is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. *See* 76 FR 3821 (Jan. 21, 2011). E.O. 13563 recognizes that some costs and benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitative values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts. *Id.*

The Department has considered the requirements of E.O. 13563 and has determined that the benefits of this proposed rescission justify any associated costs. The principal benefit of this action is the removal of a regulatory requirement that is not authorized by statute. Although these benefits are not readily quantifiable in economic terms, ensuring that agency action remains within statutory limits promotes limited constitutional government and individual liberty.

The Department further concludes that this rescission would impose no compliance costs because it removes, rather than imposes, a regulatory obligation and does not prohibit voluntary outreach efforts. Any regulatory familiarization costs are expected to be negligible because recipients would not need to take action, nor even be aware of this rulemaking, to comply with the rescission. Accordingly, the Department has determined that the benefits of the proposed action outweigh its costs, and that the proposal is consistent with E.O. 13563.

Executive Order 14192, titled ''Unleashing Prosperity Through Deregulation,'' was issued on January 31, 2025. This final rule is expected to be an E.O. 14192 deregulatory action because it reduces regulatory burden for recipients of WIOA Title I financial assistance.

B. Final Regulatory Flexibility Act (RFA) Analysis

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (March 29, 1996), requires Federal agencies engaged in rulemaking to consider the impact of their rules on small entities, consider alternatives to minimize that impact, and solicit public comment on their analyses. The RFA requires assessment of the impact of a regulation on a wide range of small entities, including small businesses, not-for profit organizations, and small governmental jurisdictions. Agencies must perform a review to determine whether a proposed or final rule would have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603. If the regulatory action would have such an impact, then the agency must prepare a regulatory flexibility analysis as described in the RFA. *See id.* However, if the agency determines that the regulatory action would not be expected to have a significant economic impact on a substantial number of small entities, then the head of the agency may so certify and the RFA does not require a regulatory flexibility analysis. *See* 5 U.S.C. 605. DOL reviewed this rescission under the provisions of the RFA and certifies that the impacts of the rescission will not have a significant economic impact on a substantial number of small entities because it will not impose any new costs or compel any entities to change their current practices.

C. Paperwork Reduction Act

This rescission imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of $100 million in 1995 dollars, updated annually for inflation. That threshold is currently approximately $206 million. This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

E. Executive Order 13132 (Federalism)

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

F. Executive Order 12250

Pursuant to Executive Order 12250, the Department of Justice has the responsibility to ''review . . . proposed rules . . . of the Executive agencies'' implementing nondiscrimination statutes such as Title VI, Title IX, and Section 504 in order to identify those which are inadequate, unclear or unnecessarily inconsistent.'' The Department of Justice has reviewed and approved this rule.

List of Subjects in 29 CFR Part 38

Administrative practice and procedure, Civil rights, Equal employment opportunity, Labor management relations, Manpower training programs.

For the reasons set forth in the preamble, the Department of Labor amends 29 CFR part 38 as follows:

PART 38—IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY PROVISIONS OF THE WORKFORCE INNOVATION AND OPPORTUNITY ACT

■ 1. The authority citation for part 38 continues to read as follows:

Authority: 29 U.S.C. 3101 *et seq.;* 42 U.S.C. 2000d *et seq.;* 29 U.S.C. 794; 42 U.S.C. 6101 *et seq.;* and 20 U.S.C. 1681 *et seq.*

■ 2. Amend § 38.31 by revising paragraph (e) to read as follows:

§ 38.31 Equal Opportunity Officer responsibilities.

* * * * *

(e) Conducting outreach and education about equal opportunity and nondiscrimination requirements and how an individual may file a complaint consistent with § 38.69;

* * * * *

§ 38.40 [Removed and Reserved]

■ 3. Remove and reserve § 38.40.

■ 4. Amend § 38.54 by revising paragraph (c) to read as follows:

§ 38.54 Governor's obligations to develop and implement a Nondiscrimination Plan.

* * * * *

(c) * * *

(1) * * *

(v) [Reserved]

* * * * *

(2) * * *

(viii) * * *

(F) Copies of any notices made under §§ 38.34 through 38.39.

Dean Heyl,

Assistant Secretary of the Office of Administration and Management.

[FR Doc. 2026–12645 Filed 6–22–26; 8:45 am]

BILLING CODE 4510–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2026–0352]

RIN 1625–AA08

Special Local Regulation; Oyster Bay Harbor, Wantagh, NY

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation (SLR) for certain waters of the Oyster Bay Harbor in the vicinity of Jones Beach State Park. This action is necessary to provide for the safety of life on these navigable waters near Wantagh, NY, immediately before, during and after an airshow to be held daily between July 1, 2026, and July 6, 2026. The rule controls vessel movement and prohibits entry into a regulated area unless specifically authorized by the Captain of the Port Long Island Sound or their designated representative.

DATES: This rule is effective from 9 a.m. on July 1, 2026, through 9 p.m. on July 6, 2026. It will only be subject to enforcement, however, within times discussed in the Supplementary Information portion of the preamble, and in the rule text, below.

ADDRESSES: To view available documents go to *https://www.regulations.gov* and search for USCG–2026–0352.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact MST2 Tammy Zhong, Sector Long Island Sound Waterways Management Division, U.S. Coast Guard; telephone 203–815–6879, or email *SECLISSPWMarineEvent@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Long Island Sound
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 January 20, 2026, the New York State Office of Parks, Recreation and Historic Preservation notified the Coast Guard that it would be sponsoring the Jones Beach Air Show from 9 a.m. on July 1, 2026, through 9 p.m. on July 6, 2026. The Coast Guard later received an application from that office for a permit under 33 CFR 100.15 to host an event deemed to introduce extra or unusual hazards to the safety of life on the navigable waters below and in the vicinity of the air show. The event will be held each day from 9 a.m. through 3 p.m. in Wantagh, NY. The air show is expected to draw approximately 2,000 spectator craft and 400,000 spectators.

The Captain of the Port Long Island Sound (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 large concentration of spectator vessels and the air show include the risk of aircraft collisions during the event, as well as other hazards inherent to air shows and practice sessions, which involve aircraft performing aerobatic maneuvers over the water. The purpose of this rulemaking is to protect event participants, non-participants, and transiting vessels before, during, and after the scheduled event.

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. There has not been enough time since adjudicating the application for an event permit to issue an NPRM, consider comments, and issue a final rule by July 1, 2026, to protect personnel, vessels, and the marine environment.

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 9 a.m. on July 1, 2026, until 9 p.m. on July 6, 2026. The SLR comprises three separate regulated areas. One is a ''No Entry Zone'', which includes all navigable waters of Oyster Bay Harbor in Long Island Sound off Oyster Bay, NY within a 1,000-foot radius of the launch platform in approximate position 40°53′42.50″ N, 073°30′04.30″ W. The ''No Entry Area'' will be enforced each day from the start of the air show at 9 a.m. until 30 minutes after it concludes. No vessel or person will be permitted to enter the ''No Entry Zone'' without obtaining permission from the COTP or their designated representative. The other regulated areas are a ''Slow/No Wake Area'' and a ''No Southbound Traffic Area.'' Each of those regulated areas will be enforced each day, beginning at 9 a.m. and continuing for six hours after the air show concludes.

The ''Slow/No Wake Area'' includes all navigable waters between Meadowbrook State Parkway and Wantagh State Parkway and contained within the following area. Beginning in position 40°35′49.01″ N, 73°32′33.63″ W; then north along the Meadowbrook State Parkway to its intersection with Merrick Road in position 40°39′14″ N, 73°34′0.76″ W; then east along Merrick Road to its intersection with Wantagh State Parkway in position 40°39′51.32″ N, 73°30′43.36″ W; then south along the Wantagh State Parkway to its intersection with Ocean Parkway in position 40°35′47.30″ N, 073°30′29.17″ W; then west along Ocean Parkway to its intersection with Meadowbrook State Parkway at the point of origin.

The ''No Southbound Traffic Area'' includes all navigable waters of Zach's Bay south of the line connecting a point near the western entrance to Zach's Bay at position 40°36′29.20″ N, 073°29′22.88″ W and a point near the eastern entrance of Zach's Bay at position 40°36′16.53″ N, 073°28′57.26″ W.

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. A Record of Environmental Consideration supporting this determination is available in the docket.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, 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.T199–0352 to read as follows:

§ 100.T199–0352 Special Local Regulation; Atlantic Ocean, Wantagh, NY.

(a) *Location*—(1) *No Entry Area.* All navigable waters beginning at a point on land located in Jones Beach State Park at approximate position 40°35′06″ N, 073°32′37″ W, then running east along the shoreline of Jones Beach State Park to approximate position 40°35′49″ N, 073°28′47″ W; then running south to an position in the Atlantic Ocean off of Jones Beach at approximate position 40°34′23″ N, 073°32′23″ W; then running west to approximate position 40°35′05″ N, 073°28′34″ W; then running north to the point of beginning at approximate position 40°35′06″ N, 073°32′37″ W. These coordinates are based on the World Geodetic System (WGS 84)/North American Datum 83 (NAD 83).

(2) *Slow/No Wake Area.* All navigable waters between Meadowbrook State Parkway and Wantagh State Parkway and contained within the following area. Beginning in position 40°35′49.01″ N, 073°32′33.63″ W; then north along the Meadowbrook State Parkway to its intersection with Merrick Road in position 40°39′14″ N, 073°34′0.76″ W; then east along Merrick Road to its intersection with Wantagh State Parkway in position 40°39′51.32″ N, 73°30′43.36″ W; then south along the Wantagh State Parkway to its intersection with Ocean Parkway in position 40°35′47.30″ N, 073°30′29.17″ W; then west along Ocean Parkway to its intersection with Meadowbrook State Parkway at the point of origin (NAD 83). All positions are approximate.

(3) *No Southbound Traffic Area.* All navigable waters of Zach's Bay south of the line connecting a point near the western entrance to Zach's Bay in position at 40°36′29.20″ N, 073°29′22.88″ W and a point near the eastern entrance of Zach's Bay in position at 40°36′16.53″ N, 073°28′57.26″ W (NAD 83). All positions are approximate.

(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 Long Island Sound (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 (206) 815–6879. 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) *Effective and Enforcement period.* This section will be effective from 9 a.m. on July 1, 2026, to 9 p.m. on July 6, 2026, with each area being enforced as follows:

(1) ''No Entry Area'' will be enforced each day from the start of the air show until 30 minutes after it concludes.

(2) The ''Slow/No Wake Area'' and the ''No Southbound Traffic Area'' will be enforced each day beginning at 9 a.m., and ending six hours after the air show concludes.

E.M. Garrity,

Captain, U.S. Coast Guard, Captain of the Port Sector Long Island Sound.

[FR Doc. 2026–12546 Filed 6–22–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–0360]

RIN 1625–AA00

Safety Zone; Straits of Mackinac, Mackinaw City, MI

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain navigable waters within a 100-yard radius of the center span of the Mackinac Bridge. The safety zone is needed to protect personnel, vessels, and the marine environment from a marine event involving swimmers under the bridge. This rulemaking prohibits entry of vessels or persons into this safety zone during the swim conducted on July 18, 2026 from 7 a.m. to noon unless specifically authorized by the Captain of the Port, Sector Northern Great Lakes or their designated representative.

DATES: This rule is effective from 7 a.m. to noon on July 18, 2026.

ADDRESSES: To view available documents go to *https://www.regulations.gov* and search for USCG–2026–0360.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact LT Rebecca Simpson, Sector Northern Great Lakes Waterways Management Division, U.S. Coast Guard; telephone 206–820–2830, or email *Rebecca.a.simpson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background and Authority

In August, 2025, an organization notified the Coast Guard that it will be conducting a swim within a 100-yard radius of the Mackinac Bridge from 7 a.m. to noon on July 18, 2026. Approximately 400 swimmers will swim from Mackinaw City to St. Ignace on the east side of the bridge. The Captain of the Port Sector Northern Great Lakes (COTP) has determined that potential hazards associated with the swim would be a safety concern for anyone within a 100-yard radius of the bridge. On May 5, 2026, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Straits of Mackinac, Mackinaw City, MI (91 FR 24147). In that NPRM, we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this swim event.

Under the authority in 46 U.S.C. 70034, the COTP has determined that this rule is necessary to protect personnel, vessels, and the marine environment from potential hazards associated with the swim event. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or their designated representative.

III. Discussion of Comments and the Rule

During the comment period that ended June 4, 2026, we received no comments. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 7 a.m. until noon on July 18, 2026. The safety zone would cover all navigable waters within 100 yards of the Mackinac Bridge while swimmers are beneath it. No vessel or person is permitted to enter the safety zone 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 Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions

with populations of less than 50,000. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

The Coast Guard certifies that, although some small entities may intend to transit the safety zone above, this rule will not have a significant economic impact on a substantial number of small entities. Vessel traffic will be able to safely transit around this safety zone. This safety zone will only impact a small designated area for a few hours. In addition, the Coast Guard will issue a Broadcast Notice to Marines via VHF FM marine channel 16, which will allow small entities to adjust their transit plans, and the rule allows vessels to request permission to enter the zone from the COTP.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247).

B. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

C. Federalism and Indian Tribal Governments

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in that Order.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies that this rule will not result in an annual expenditure of $100,000,000 or more (adjusted for inflation) by a State, local, or Tribal government, in the aggregate, or by the private sector.

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule is a safety zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; DHS Delegation No. 00170.1, Revision No. 01.4.

■ 2. Add § 165.T09–0360 to read as follows:

§ 165.T09–0360 Safety Zone; Straits of Mackinac, Mackinaw City, MI.

(a) *Location.* The following area is a safety zone: All navigable waters, from surface to bottom, within 100 yards of the center span of the Mackinac Bridge between St. Ignace, MI and Mackinaw City, MI.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Northern Great Lakes (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (906) 635–3237. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 7 a.m. to noon on July 18, 2026.

D.M. Parker,

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

[FR Doc. 2026–12557 Filed 6–22–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–0759]

RIN 1625–AA00

Safety Zone; Detroit River, Trenton, MI

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of the Detroit River within a 250-yard radius of the Trenton Channel in Trenton, MI. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards during a fireworks event. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Detroit or their designated representative.

DATES: This rule is effective from 9:30 p.m. through 11:00 p.m. on June 27, 2026.

ADDRESSES: To view available documents go to *https://www.regulations.gov* and search for USCG–2026–0759.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact Tracy Girard, Waterways Management Division, U.S. Coast Guard Sector Detroit; (313) 475–7475, *D09-SMB-SecDetroit-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background and Authority

The Coast Guard received notification that fireworks will be launched from a barge in the Trenton Channel in the Detroit River in Trenton, MI. The Captain of the Port (COTP) Detroit has determined that potential hazards associated with fireworks are a safety concern for anyone within a 250-yard radius of the fireworks display. Therefore, the COTP is issuing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone.

Because of these potential hazards, the Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard was notified of this event on June 1, 2026, but we must establish this safety zone by June 27, 2026, to protect personnel, vessels, and the marine environment. Therefore, we do not have enough time to solicit and respond to comments.

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

III. Discussion of the Rule

This rule establishes a safety zone on June 27, 2026. The safety zone will cover all navigable waters of the Detroit River within a 250-yard radius of a fireworks site in the Trenton Channel, Trenton, MI. Vessels and persons will not be allowed to enter the zone during this time, unless authorized by the Captain of the Port.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Impact on Small Entities

The regulatory flexibility analysis provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to rules that are not subject to notice and comment. Because the Coast Guard has, for good cause, waived the notice and comment requirement that would otherwise apply to this rulemaking, the Regulatory Flexibility Act's flexibility analysis provisions do not apply here.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

C. Federalism and Indian Tribal Governments

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in that Order.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies that this rule will not result in an annual expenditure of $100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule is a safety zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; DHS Delegation No. 00170.1, Revision No. 01.4.

■ 2. Add § 165.T09–0759 to read as follows:

§ 165.T09–0759 Safety Zone; Detroit River, Trenton, MI.

(a) *Location.* The following area is a safety zone: All navigable waters of the Detroit River within a 250-yard radius in the Trenton Channel at 42°08′24.9″ N 83°10′21.9″ W in Trenton, MI.

(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 Detroit (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 9:30 p.m. through 11:00 p.m. on June 27, 2026.

Dated: June 17, 2026.

Caren C. Damon,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2026–12558 Filed 6–22–26; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[EPA–R08–RCRA–2025–0420; FRL–12863–02–R8]

No-Migration Variance From Land Disposal Restrictions for Clean Harbors Grassy Mountain, Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final approval.

SUMMARY: The Environmental Protection Agency (EPA) is approving with conditions, no-migration variances for four categories/groups of wastes, containing up to a combined 250 temporary disposal units (''put piles'') at any one time, from the Resource Conservation and Recovery Act (RCRA) Land Disposal Restrictions (LDR) standards at Clean Harbors' Grassy Mountain (Clean Harbors) commercial treatment, storage and disposal facility (TSDF) in Tooele County, Utah. These variances will allow Clean Harbors to temporarily store treated hazardous wastes that are awaiting LDR compliance verification in put piles within its Subtitle C (hazardous waste) landfill. The petitioner demonstrated, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the put piles for as long as the wastes remain hazardous. Additionally, once LDR compliance is verified, the put piles will be disposed within the onsite RCRA hazardous waste landfill cell and will be subject to the conditions set out in the Compliance Monitoring Plan section of this document.

DATES: The final approval is effective July 23, 2026.

FOR FURTHER INFORMATION CONTACT: Jesse Newland; Land, Chemicals and Redevelopment Division; EPA Region 8; 1595 Wynkoop Street, Denver, Colorado 80202–1129; Mail Code: 8LCR–RC–P; telephone number: (303) 312–6353; and email: *newland.jesse@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this document apply to me?

This action applies only to Clean Harbors' Grassy Mountain Facility (Clean Harbors) located in Tooele County, Utah.

B. What action is the Agency taking?

The EPA is finalizing no-migration variances (NMVs) for up to a combined 250 put piles at any one time for the 4 categories/groups of wastes identified in *The Petition* section of this approval as requested by Clean Harbors in their July 16, 2024 petition, for the Grassy Mountain facility. For the reasons described in the December 31, 2025 (90 FR 61356) preamble to the proposed approval and in the Agency's response to the three comments received on the proposal, the EPA is finalizing the variance without alteration. The term of this NMV shall be no longer than the term of the RCRA Subtitle C permit for the permitted landfill.

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

Sections 3004(d) through (g) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6294(d) through (g), prohibit the land disposal of hazardous wastes unless such wastes meet the LDR treatment standards (''treatment standards'') established by EPA (''Agency'').

However, RCRA 3004(d)(1),[1] and its implementing regulations found at 40 CFR 268.6, provide an option for land disposal of hazardous waste that does not meet the applicable treatment standards where EPA has approved an NMV petition. Specifically, 40 CFR 268.6(a) describes the components that a demonstration of no migration must address; 268.6(b) specifies certain criteria that must be satisfied for that demonstration, and 268.6(c) describes the monitoring program that will be used to verify that the conditions of the NMV are being met.

II. Background

A. The Petition

On July 16, 2024, Clean Harbors submitted an NMV petition to the EPA for its Grassy Mountain facility in Tooele County, Utah, seeking an exemption from the LDR prohibition on placing hazardous waste on the ground if that waste does not meet the prescribed LDR standards of 40 CFR 268.40, by demonstrating that for as long as the waste remains hazardous, there will be no migration of hazardous constituents from the disposal units. In response to EPA requests following the original November 2023 submission, Clean Harbors provided supplemental information for the Agency's evaluation of Clean Harbors' no-migration demonstration. The original petition and associated responses to Agency information requests (together referred to as ''the petition'') can be found in the docket (EPA–R08–RCRA–2025–0420).

III. Summary of Conditions for the NMV

A. Types of Wastes and Maximum Quantity of Put Piles Covered by This NMV

Clean Harbors' no migration demonstration applies to the following four categories/groups of wastes stored in up to a combined 250 put piles at any one time located within the facility's Subtitle C Landfill cell, known as ''Cell 8.''

(1) general metals (1) general metals (D002, D004–D011);

(2) cyanide/sulfide with metals (D002, D004 through D011, F006 through F012, F019);

(3) high-chromium wastes (D002, D004 through D011, F006);

(4) ammonia (D002, D004–D011).

B. Duration of Temporary Storage

While the basis for EPA's final approval is that Clean Harbors demonstrated to a reasonable degree of certainty that no hazardous constituents will migrate from the put piles for as long as the wastes remain hazardous, this NMV is conditioned upon the temporary nature of the put piles within Landfill Cell 8 and is intended for situations where the put piles are used as part of an overall strategy to confirm consistent and compliant treatment that meets the applicable LDR treatment standards.

The Agency concludes that Clean Harbors has provided sufficient analytical data to justify a six (6)-month duration (*i.e.* 180 days) for storage of a put pile from the time the pile is first staged until final disposal in the working face of the Landfill Cell 8. If an issue arises where greater than 180 days temporary staging of a put pile is necessary, the Utah DEQ may issue an extension, if warranted.

[1] RCRA 3004(d)(1)(c) states: ''. . . For the purposes of this paragraph, a method of land disposal may not be determined to be protective of human health and the environment for a hazardous waste referred to in paragraph (2) . . . unless, upon application by an interested person, it has been demonstrated to the Administrator, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous.''

C. Required Put Pile Engineered Controls

This section describes engineered controls required for put piles, in addition to site-wide engineered controls described in the petition and proposed approval found in the docket under Docket ID No. EPA–R08–RCRA–2025–0420.

All put piles must be temporarily stored in a designated area of Landfill Cell 8 until LDR compliance has been confirmed. The put piles must then be moved to the working face of Landfill Cell 8.

The put piles must be encapsulated (liner below and Posi-Shell® atop) by the unit-specific engineered barriers discussed below to prevent migration of hazardous constituents beyond the put pile boundary. These unit-specific barriers are distinct from the existing landfill controls for Landfill Cell 8, such as run-on and run-off controls, that were considered in the overall prevention of migration of hazardous constituents.

1. Liners

A liner of at least 20-mil thickness polyethylene geomembrane must be used as a barrier to vertical and lateral migration for the put piles. The liner beneath the pile will provide a barrier for vertical migration. Because the layout of the put piles is accommodated within the standard width of a prefabricated geomembrane roll, the liner must be one solid piece without the need for welding of seams. The lack of seams lends to additional assurance that hazardous constituents will not migrate through a broken seam. The Agency concludes that a liner of at least 20-mil thickness, in conjunction with the inspection program described in the Compliance Monitoring Program section, is appropriate for use in this temporary disposal scenario; however, there must always be at least 12 inches of the liner visible on all sides of the put pile to prevent potential horizontal migration of the waste from the edge of the liner.

Before placing the put piles in the temporary storage area of Landfill Cell 8, Clean Harbors must grade the temporary storage area where put piles will be located. The grading must be relatively flat but with a slight positive grade to preclude ponding of water on the polyethylene liners.

2. Covers

Clean Harbors must use a Posi-Shell® cover to act as a rain and wind barrier for put piles, to ensure no migration of hazardous constituents from the put piles occurs via lateral migration or air pathways. Posi-Shell® is a spray-applied mortar applied as a coating to the surface of the put piles, with a minimum cover thickness of ⅜-inch. Because Posi-Shell® is a mortar, curing is necessary to allow it to harden. Curing typically occurs within 12–24 hours in dry weather, forming a relatively impermeable thin layer of durable, hardened mortar. However, if moderate to heavy rainfall occurs unexpectedly or is imminent, sustained freezing temperatures are expected for more than one day, or the temperature falls below 30 °F, the Posi-Shell® will not harden sufficiently. During these times of inclement weather, Clean Harbors must temporarily cover the put piles with polyethylene sheeting of at least 20-mil thickness, anchored with sandbags around its edges, until the adverse weather conditions abate, and the Posi-Shell® coating can be applied. Within twenty-four (24) hours of weather conditions amenable to Posi-Shell® application, Clean Harbors must apply the coating.

3. Run-On/Run-Off Controls

Upgradient of the staging area for each put pile, Clean Harbors must construct and/or maintain a diversion berm of sufficient height/width to direct run-on away from each of the put piles. As Landfill Cell 8 is filled, if the waste grade changes adjacent to the put pile temporary storage area, additional diversion berms must be added, if necessary to divert stormwater run-on and run-off to isolate the staging area on the working face of Landfill Cell 8. To control run-off, in addition to the Posi-shell® coating, Clean Harbors must include, at a minimum, ditches around the inside perimeter of Landfill Cell 8 embankments and must remove ponded stormwater that accumulates on top of the put piles.

4. Compliance Monitoring Plan

In accordance with 40 CFR 268.6(a)(4), Clean Harbors must maintain at the facility, a put pile monitoring plan that includes, at a minimum, components 1–16 below, many of which were included by Clean Harbors in the petition and the Agency adopts as proposed.

Deficiencies identified during inspection must be remedied/repaired to ensure no migration of hazardous constituents occurs. Deficiencies may include cracking, breakdown, or insufficient application of the Posi-Shell cover; gaps, tears, or holes in plastic sheeting utilized for the management of the unit; presence of stormwater run-on flow and/or ponded water; visibly exposed waste; and poor overall pile condition. Deficiencies must be remedied within one (1) week of discovery, and remedies must be recorded in the facility's operating record.

Deficiencies described by this section must be remedied regardless of whether Clean Harbors determines that a migration of hazardous constituents has occurred or may have occurred if LDR compliance verification of the waste in the unit is not yet available. If Clean Harbors determines that there has been a migration of hazardous constituents from any of the put piles or is unable to remedy any deficiency within one (1) week of discovery, Clean Harbors must immediately suspend receipt of waste at the affected put pile and notify the Region 8 Administrator, in writing, within ten (10) days of the determination that a release has occurred or that a deficiency was unable to be remedied within one (1) week.

Clean Harbors must:

1. Review and track LDR standard ''pass rates'' for put piles. To ensure that the waste piles are only being ''temporarily stored,'' as described in the February 2023 guidance, if the failure rate of the initial verification test for treated put piles exceeds 5% in a calendar month, Clean Harbors must conduct a root cause analysis and adjust the treatment protocol for the affected category of waste.

2. Inspect the temporary staging area for put piles prior to deploying the 20-mil polyethylene liner. The underlying area must be free of large or rigid objects that may damage the liner.

3. Observe that the liner is not displaced or damaged during placement of the waste piles on the liner to confirm the integrity of the liner beneath a waste pile. A damaged liner must be replaced with a new liner.

4. Perform daily inspection of covered waste piles to verify integrity of the liner, cover, and overall pile condition. Inspectors must, at a minimum, check for (1) signs of stormwater run-on flow that has or is migrating towards a put pile, or other signs of potential for put pile erosion, undermining, or washout of the waste encapsulation barriers; (2) damage from strong winds, heavy rain, or other extreme weather events (*e.g.,* in particular, causing holes, uplift, or other breaches in the Posi-Shell® cover) within 24 hours of such event; (3) visible exposed waste; (4) releases of waste (washout/undermining, displacement/movement of the pile such as shifting or slumping, windblown waste particles, etc.); (5) other indications of potential for migration or actual observed migration of hazardous constituents from the pile

(*e.g.,* liquid seeps on the waste pile slopes or emanating from its base); and (6) cracks in the Posi-Shell®.

5. Ensure Appropriate Posi-Shell® application. Adhering to inclement weather application prohibitions as recommended by the manufacturer. If a waste pile is unable to be immediately covered with a Posi-Shell® (*e.g.,* moderate to heavy rainfall occurs unexpectedly or is imminent), the waste pile must be temporarily covered with polyethylene sheeting of at least 20-mil thickness and anchored with sandbags around its edges until the adverse weather conditions abate and the Posi-Shell® coating can then be applied. Posi-Shell® should not be applied when temperatures at or below 32 °F are expected for more than one day or for any length of time when temperatures are below 30 °F.

6. Verify that 100% coverage of Posi-Shell® is achieved over the entire put pile (no bare or thin spots).

7. Confirm that the minimum ⅜-in thickness of Posi-Shell® is achieved.

8. Confirm that the Posi-Shell® cover is sufficiently set (hardened) before a moderate to heavy rainfall event.

9. Promptly re-apply Posi-Shell® cover if any deficiencies are identified during application, including but not limited to lack of coverage, thickness, or hardening.

10. Check for loss of 100% coverage of Posi-Shell® or other signs of cover degradation (imminent potential for loss of barrier effectiveness or thickness).

Landfill Cell 8-specific remediation requirements:

11. Remove ponded water on the landfill surface that could affect the put piles.

12. Modify, as needed, run-on controls to continue to divert surface water around each put pile staging area.

13. Maintain or alter, as appropriate, landfill grading to prevent put pile run-on.

14. Isolate the four waste categories/groups of put piles from each other to prevent potential commingling.

15. Maintain landfill equipment.

16. Submit a duplicate copy of the RCRA annual report required by 40 CFR 268.6(c)(3). This will include all LDR verification sampling, resampling, and retreatment to EPA Region 8 at: Jesse Newland; Land, Chemicals and Redevelopment Division; EPA Region 8; 1595 Wynkoop Street, Denver, Colorado 80202–1129, Mail Code: 8LCR–RC–P; telephone number: (303) 312–6353.

IV. Future Amendments to This NMV

If Clean Harbors anticipates needing to exceed 250 put piles at any one time, it must request approval from EPA Region 8 Administrator prior to creating new put piles. Clean Harbors also requested that this variance proactively apply to future put piles of identical waste characteristics that would be staged in future proposed and permitted Subtitle C landfill cells.

While this Final Approval applies only to those put piles placed within existing Landfill Cell 8, upon permit approval of new cells, Clean Harbors may submit to EPA Region 8 an addendum to this petition to expand this NMV and all of its conditions and requirements, for the put piles located within the new landfill cell if:

1. Clean Harbors is in compliance with the approved NMV;

2. The new landfill cell uses the same disposal unit engineered controls (*e.g.,* landfill cell interior berms for run-on and run-off control) as approved in this variance;

3. The duration of temporary placement remains at six (6) months or less and complies with the conditions established herein;

4. The waste categories remain the same; and

5. The monitoring program (*e.g.,* groundwater monitoring) is expanded to include the new landfill cell.

Additionally, 40 CFR 268.6(e) acknowledges the potential for post-approval changes in conditions at the no migration unit(s) and/or the environment around the no migration unit(s). For the purpose of this NMV, all changes that significantly depart from the conditions described in the petition and proposed approval found in Docket ID No. EPA–R08–RCRA–2025–0420 must be reported to the Region 8 Administrator if the changes have the potential to affect migration of hazardous constituents from the put piles:

1. If Clean Harbors plans to make changes to the unit(s)' design, construction, or operation, such a change must be proposed, in writing, and include a demonstration to the Region 8 Administrator at least 30 days prior to making the change. The Region 8 Administrator will determine whether the proposed change invalidates the terms of the approved variance and will determine the appropriate response. A proposed change must first be approved by the Region 8 Administrator before taking any action.

2. If Clean Harbors discovers a site condition that does not occur as modeled or predicted in the petition, this change must be reported, in writing, to the Region 8 Administrator within 10 days of discovery. The Region 8 Administrator will determine whether the reported change from expected conditions alters the terms of the approved variance and thus requires further action.

V. Public Comment Period

EPA announced its proposal to approve the Clean Harbors NMV petition and provided 30-day public comment period on December 1, 2025. The comment period closed on January 30, 2026 (90 FR 61356, December 31, 2025). EPA received three comments in response to the proposed NMV approval. The public comments and EPA's responses are available in the docket for this action (EPA–R08–RCRA–2025–0420). Portions of the three comments were outside the scope of this action; EPA addresses the relevant issues in the Response to Comments document provided in the docket.

VI. Conclusion

The agency concludes that Clean Harbors has demonstrated, to a reasonable degree of certainty, that there will be no migration of hazardous constituents beyond the unit boundary for treated hazardous wastes temporarily stored in put piles within permitted Subtitle C hazardous waste Landfill Cell 8 while awaiting verification of compliance with the LDR standards. Accordingly, EPA hereby approves the NMV for Clean Harbors' Grassy Mountain facility, subject to the terms and conditions stated herein and as presented in the petition found in the docket.

List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste, Variances.

Dated: June 8, 2026.

Cyrus Western,

Regional Administrator, Region 8.

[FR Doc. 2026–12544 Filed 6–22–26; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 294

[Docket Number MARAD–2022–0247]

RIN 2133–AB95

Tanker Security Program

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule implements the Tanker Security Program (TSP) and makes certain changes to the TSP

interim final rule (IFR) published in the **Federal Register** on December 7, 2022, in response to public comments received on the IFR, feedback from stakeholders, and MARAD's own experience during initial program administration. The Secretary of Transportation is authorized to establish TSP, comprised of a fleet of active, commercially viable, militarily useful, privately owned product tank vessels of the United States. The TSP Fleet is intended to meet national defense and other security requirements and maintain a United States presence in international commercial shipping. TSP supports the United States maritime industries and workforce to promote national security and economic resilience.

DATES: This final rule is effective July 23, 2026.

FOR FURTHER INFORMATION CONTACT: David Hatcher, Deputy Associate Administrator for Commercial Sealift, at (202) 366–0688, or via email at *david.hatcher1@dot.gov.* You may send mail to Mr. Hatcher at U.S. Department of Transportation, Maritime Administration, Office of Sealift Support, 1200 New Jersey Avenue SE, Room W25–310, Mail Stop 1, Washington, DC 20590.

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.*

Background

Per 46 U.S.C. 53402, as enacted by Section 3511(a) of NDAA FY21, the Secretary of Transportation, in consultation with the Secretary of War, is required to establish a fleet of active, commercially viable, militarily useful, privately owned product tank vessels to meet national defense and other security requirements. NDAA FY22 section 3515(b) amended the eligibility requirements of vessels in TSP to disqualify any vessel under charter to the United States Government for any period that, together with options, exceeds 180 continuous days. TSP provides a stipend to tanker operators of U.S.-flagged vessels that meet certain qualifications and operate in accordance with operating agreements issued by MARAD in accordance with 46 U.S.C. 53401–12. TSP supports the United States maritime industries and workforce to promote national security and economic competitiveness as articulated in Executive Order (E.O.) 14269 (90 FR 15635–41; Apr. 15, 2025).

TSP currently authorizes payments to participating operators of $8.16 million per ship, per fiscal year, subject to annual appropriations. Participating operators are required to make their commercial transportation resources available upon request by the Secretary of War for military purposes during times of war or national emergency.

National Defense Requirement

A fuel tanker study required by Section 3519 of the NDAA for Fiscal Year 2020 (Pub. L. 116–92, Dec. 20, 2019) (NDAA FY20) examined the sufficiency of the U.S.-flagged tanker fleet to meet National Defense Strategy (NDS) requirements. A summary of the report was provided on the docket for the IFR. The report's summary found a substantial risk to the Nation's defense associated with a heavy reliance on foreign-flagged tankers, particularly within a contested environment. The location, timing, and specific missions associated with some tanker requirements dictate the need for U.S.-flagged assets, for which there are currently insufficient numbers available. The report's gap analysis found a clear and critical need for a tanker security program to increase U.S.-flagged tanker capacity, to reduce the risk of reliance on foreign-flagged tankers for the most important fuel missions, and to ensure the Department of War (DOW) [1] has sufficient tanker capabilities to meet NDS objectives.

In response to the NDAA FY20 Fuel Tanker Study, in the NDAA FY21, Congress directed the Secretary of Transportation, in consultation with the Secretary of War, to establish a fleet of active, commercially viable, militarily useful, privately-owned product tanker vessels to meet national defense and other security requirements and maintain a United States presence in international commercial shipping.[2] The Maritime Administration worked with the DOW's United States Transportation Command to identify and shape TSP requirements and timelines.

Statutory Implementation

Consistent with NDAA FY21, the rule establishes requirements that support typical DOT and MARAD commercial economic objectives such as the tanker vessel eligibility requirements in MARAD's regulations at 46 CFR 294.9. Specifically, tanker vessels must be commercially viable, be not more than 10 years in age, and operate in U.S. foreign commerce. In addition, § 294.9 requires tanker vessels to be suitable for use by the United States for national defense or military purposes in time of war or national emergency, as determined by the Secretary of War. Section 294.11 also requires vessel owners, charterers, and operators to meet certain requirements of NDAA FY21 to establish their corporate citizenship to ensure security through proper operational control. Section 294.25 requires a TSP participant to agree to install onboard its vessel militarily useful features as approved by the U.S. Coast Guard and the vessel's classification society. Section 294.23(d) requires TSP participants to enter into the Voluntary Tanker Agreement, which is an emergency preparedness agreement by which TSP participants commit to making commercial transportation resources (including services) available for military use, upon request by the Secretary of War during a time of war or national emergency, or whenever the Secretary of War determines that it is necessary for national security or contingency operation. Section 294.31 also provides for annual payments to program participants and specifies payment conditions set forth in the statute. Taken together, the TSP supports both the Nation's economy and its national security by strengthening and ensuring the continued availability of U.S.-flag tanker capacity.

Since the publication of the IFR in 2022, MARAD, in conjunction with United States Transportation Command, has awarded TSP Operating Agreements covering the operation of product tank vessels in TSP, and those vessels have begun operation in the Tanker Security Fleet.

Summary of Changes From IFR

MARAD has made several changes to this Final Rule from the IFR, one pursuant to a comment and others following additional analysis by MARAD. The first change clarifies that a vessel operating in TSP placed under a long-term charter to the Government (defined as any charter that, together with options, occurs for more than 180 continuous calendar days) only becomes ineligible to participate in TSP on the date and time on which the vessel is actually delivered to, and accepted by, the Government for operation under the charter. One commenter proposed this modification (see Comments on the

[1] Reference to the Department of War is made pursuant to E.O. 14347, *Restoring the United States Department of War* (90 FR 43893 (Sept. 10, 2025).

[2] The tanker security program authority is codified at 46 U.S.C. 53402–53412.

Interim Final Rule, below), and MARAD incorporates this change into § 294.21(e).

MARAD has also updated the duration of the operating agreements to reflect statutory updates to the program since its initial enactment. The IFR defined operating agreements as annual agreements that automatically renewed each year until the end of FY 2035 in accordance with the original authorizing statute. Congress extended TSP's authorization to 2040 under section 3531(b) of the NDAA for Fiscal Year 2025 (Pub. L. 118–159 (Dec. 23, 2024)) (NDAA FY25), and MARAD accordingly has extended the authorization period of the operating agreements to the end of FY 2040. MARAD also clarified that obligations under the operating agreements are subject to actual appropriations for any given fiscal year and that MARAD may enter into new operating agreements after the start of the initial ten operating agreements. Any such agreements are also authorized through the end of FY 2040.

MARAD has modified §§ 294.21 and 294.31 to make clear that, in the event that appropriations for TSP payments are lower than the authorized amount, all current participants would receive stipend payments pro rata based on the appropriated amount. MARAD would not renew operating agreements for lack of funding only if Congress does not appropriate any money toward TSP, *e.g.,* an extended Government shutdown. The ability to maintain payments to program participants at appropriated levels, even if lower than authorized levels, ensures that TSP remains as close to maximum readiness as possible, which is critical should there be a sudden crisis, armed conflict, or national emergency requiring the use of these vessels by the Government to meet urgent needs.

MARAD is clarifying § 294.23(d) to promote the sustainability of the Tanker Security Fleet in the event of a national security event. Under 46 U.S.C. 53407 and 46 CFR 294.23(d), all vessels operating in TSP must enter into a Voluntary Tanker Agreement (VTA), in which they commit to make their TSP vessel available to fulfill DOW requirements in times of war or national emergency. MARAD has clarified that a vessel activated under the VTA [3] is not considered to be operating under a long-term charter to the United States for purposes of the statute and this rule. In the absence of a VTA activation, a Government charter lasting more than 180 days would make the vessel ineligible to remain in the TSP. As charters of vessels pursuant to a VTA activation are not made under normal commercial conditions but to fulfill contingency operation requirements, disqualification of any vessel due to its national security obligations would fundamentally frustrate the program's purpose.

MARAD has also clarified that it will not terminate a TSP Operating Agreement if the TSP vessel has been activated under VTA, suffers a marine casualty while operating pursuant to the activation, and the Agreement Holder makes all reasonable and timely efforts to either repair or replace the vessel, as determined by MARAD. As VTA participation is a statutory requirement, an Operating Agreement termination for failure to operate a qualified vessel when the failure results from a VTA-related marine casualty could undermine the goals of the TSP Program. However, carriers also have a responsibility to operate and maintain qualified vessels under TSP Operating Agreements, and MARAD will ensure that, in the event of a marine casualty during a VTA activation, the Agreement Holder makes all reasonable and timely efforts to resume TSP operations. Further, this new subparagraph does not obligate MARAD to continue TSP payments to the Agreement Holder following the marine casualty. Accordingly, MARAD is adding § 294.23(d)(3) to ensure the stability of the Tanker Security Fleet during a VTA activation while also relying on MARAD's technical expertise to ensure proper oversight and enforcement of this provision.

MARAD has also updated the schedule of payments in TSP to reflect statutory updates to the program. Section 294.31(a) of the IFR reflected TSP's original statutory authorization. Section 3531(a) of the NDAA FY 2025 both extended the authorization of TSP out to the end of FY 2040 and updated the payment schedule, and MARAD makes those same updates here, including the caveat that all such payments are subject to actual appropriations.

MARAD is incorporating into the final rule Article I–8(c) of the Operating Agreement that all Agreement Holders must report any period of maintenance, survey, inspection, or repair to MARAD in advance if the work being done on the vessel will render it unable to move under its own power or makes it unable to meet its national security obligations under VTA on an immediate basis. Existing requirements at § 294.31(c)(1)(v) provide that MARAD will not make payments to Agreement Holders for any day that a TSP Fleet Vessel is in maintenance, survey, inspection, or repair that exceeds 30 days per fiscal year unless the Agreement Holder obtains MARAD's prior authorization to exceed the 30-day limit. However, this does not provide MARAD with full visibility of the readiness of the Tanker Security Program Fleet at any given time, which could compromise the TSP Fleet's national security mission if called to respond. The Operating Agreement permits MARAD to request that Agreement Holders notify MARAD in advance of any period of maintenance, survey, inspection, and repair, regardless of expected duration. Accordingly, MARAD is adding paragraph (f) to § 294.23 to require reporting of any period when the TSP Fleet Vessel would not be able to respond immediately to an emergency activation due to maintenance, survey, inspection, and repair. This new paragraph does not supersede the existing requirement at § 294.31(c)(1)(v) to request extensions of maintenance, survey, inspection, and repair periods for TSP Fleet Vessels if the Agreement Holder believes they will exceed 30 days.

MARAD updated § 294.17(a) to reflect the expansion of the TSP Fleet since the initial enactment of 46 U.S.C. ch. 534. Section 3511(a) of NDAA FY 21 set the maximum TSP Fleet size at ten vessels. Section 3501(b)(2) of the NDAA FY 2023 (Pub. L. 117–263 (Dec. 23, 2022)) expanded the maximum TSP Fleet size to twenty vessels starting in FY 2024, and section 3531(c) of NDAA FY 2025 (Pub. L. 118–159 (Dec. 23, 2024)) phased in the increase in the TSP Fleet size over a three-year period through a funding schedule, with funding for fifteen vessels authorized for FY 2025–26 and twenty vessels for FY 2027–28. MARAD added a clause in § 294.17(a) to reflect the changes in statute and allow for any future TSP Fleet expansions.

MARAD also made two clerical changes to reflect updates to the titles of applicable offices and officials. First, MARAD updated § 294.33(b) to reflect the change in the title of the USTRANSCOM official to whom carriers or applicants may direct communications when relevant. The prior title was the Director of Strategic Plans, Policy, and Logistics, but is now the Director of Strategic Plans, Policy, Logistics, and War-Fighting Development. Second, MARAD updated references from the IFR regarding the Department of Defense and Secretary of Defense consistent with E.O. 14347 (Sept. 5, 2025).

[3] The VTA program was renewed and the VTA form was revised in 2022 (87 FR 67119–26, Nov. 7, 2022).

Comments on the Interim Final Rule

In response to the publication of the IFR in the **Federal Register** on December 7, 2022 (87 FR 74977–87), which sought public comment concurrent with the promulgation of the IFR, MARAD received two separate comment submissions. MARAD responds to the comments below.

One commenter requested that MARAD modify the language of 46 CFR 294.21(e) to further clarify at what point vessels under long-term charter to the Government become ineligible to operate in TSP. We agree, and have updated § 294.21(e) accordingly, as explained in Summary of Changes from IFR, above.

The commenter expressed concern that MARAD might accept a vessel into TSP that was found commercially viable but would not benefit national security. In response, MARAD emphasizes that all vessels accepted for TSP must be found both commercially viable, as determined by MARAD, and militarily useful, as determined by U.S. Transportation Command. The dual requirement is specifically designed to ensure that TSP is comprised of the vessels that best suit the program's dual mandate of economic competitiveness and national security, and to minimize the risks to the Federal Government.

The commenter also requested that any vessel enrolled in TSP be required to meet all standards of the International Maritime Organization, United States Coast Guard (USCG), and standards set by recognized classification societies. This comment is beyond the scope of this rulemaking because USCG is responsible for U.S. vessel registration and inspection, and vessels in TSP must be registered and inspected under United States law to qualify for participation in the program.

The commenter requested that U.S.-built vessels be given selection priority for TSP Operating Agreements. Under 46 U.S.C. 53403(b)(2), the highest priority in vessel selection is its military utility, followed by the applicant's record of owning and operating vessels, followed by any other priorities MARAD considers appropriate. In the IFR at § 294.15(b), MARAD established a third priority that focuses on the citizenship of the applicant. Following promulgation of the IFR, the President issued E.O. 14269 (90 FR 15635–41 (Apr. 9, 2025)) directing agencies involved in United States maritime policy, including MARAD, to develop and implement policies that would, among other objectives, invest in United States shipbuilding. In support of that E.O. and MARAD general authority at 46 U.S.C. 50101(a), MARAD has added a fourth selection priority under § 294.15(b) for vessels built in the United States. MARAD believes that this revised prioritization will balance the applicable equities, ensuring that the program (1) has a sufficient U.S.-based nexus while also giving both applicants and the Federal Government the greatest latitude to select the most capable vessels for the program and (2) supporting E.O. 14269's focus on United States shipbuilding activities.

One commenter asked MARAD to clarify if TSP vessels are considered public vessels of the United States. The comment raises an issue that is dependent on facts and circumstances in an analysis under the Public Vessels Act rather than the Tanker Security Act and thus is beyond the scope of this rulemaking.

Regulatory Analyses and Notices

Executive Order 12866

This rule has been determined to be not significant pursuant to E.O. 12866 and was not reviewed by the Office of Management and Budget (OMB). TSP statutory authorities currently authorize the establishment of a fleet of product tank vessels, engaged in U.S. foreign commerce and available for use by DOW during times of war or national emergency. Statutory language defines, among other elements: the maximum size of the TSP Fleet at 20 vessels; the general vessel selection criteria; the obligations and rights of program participants; the maximum annual payments per vessel under each agreement and the conditions of such payments; and each participant's national security obligations under the program.

Benefits

The major benefits of TSP are that it will: (1) provide DOW with assured access to U.S.-flagged product tank vessels that may be used to supply the armed forces of the United States with fuel during times of war or national emergency, and (2) help to ensure that a core fleet of U.S.-based product tankers can operate competitively in international trade and enhance U.S. supply chain resiliency for liquid fuel products. The DOW's Fuel Tanker Study found an insufficient supply of U.S.-flagged tankers to meet National Defense Strategy requirements. In addition, TSP will help maintain a U.S.-flag presence in international commerce. The TSP vessels will be a critical component of U.S.-flag capability that contributes to the U.S. mariner base for utilization on both the commercial, Ready Reserve Force, and DOW fleets.

Costs

Congress set statutory limits on the maximum number of participant vessels and the annual payment per vessel. TSP statutory authorities allow the participation of up to 20 vessels in TSP through the end of FY 2040. MARAD is authorized to pay each operator of a TSP vessel an annual stipend per vessel ranging from $8,160,000 for fiscal years 2025 and 2026 to $9,833,000 for fiscal years 2039 and 2040, subject to the availability of appropriations and specific operating requirements. Program funding is authorized at $122,400,000 per year for fiscal years 2025 and 2026, with gradual increases in funding authorization to $196,660,000 per year for fiscal years 2039 and 2040. Application costs for vessels that apply for the TSP are discussed in the section below, describing MARAD's compliance with the Paperwork Reduction Act for this rule.

Analysis of Alternatives

Section 3511 of the FY21 NDAA provides for the TSP with new funding authorization and establishes a dedicated product tanker fleet program distinct from the existing Maritime Security Program (MSP) fleet. Congress also prescribed the minimum requirements of the TSP, including ship ownership, vessel eligibility, vessel documentation, program duration, the number of participating vessels, the amount of funding, and national security obligations. The Act provides detailed requirements for establishing and operating the TSP, and MARAD does not have discretion to deviate from those requirements in the regulations that establish the TSP's operation.

Since publishing the IFR, this final rule now includes a prioritization for commercial tankers built in the United States. In support of this new addition, MARAD points to its longstanding objectives and policies that ensure the U.S. Merchant Marine is composed of the best equipped, safest, and most suitable types of vessels constructed in the United States and manned with a trained and efficient citizen personnel.[4] At this time, there are no US-built tanker vessels, but this new priority could prompt the building of tanker vessels in the United States without foreclosing foreign built tanker program participation. In addition, MARAD has made updates to the duration of its operating agreements and the payment

[4] 46 U.S.C. 50101(a)(4).

schedules that were set by Congress in section 3531 of NDAA FY25, clarifications on when TSP vessels are on charter to the Government, and improvements to the marine casualty provision designed to benefit operating agreement holders by providing them with greater clarity and flexibility of business operations in the event their vessels are activated under VTA, which can be highly disruptive to standard commercial activities.

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 is required by law and is excepted from E.O. 14192 as not meeting the definition of a regulation or rule because it is being issued ''with respect to a military, national security, . . . related function of the United States.'' (Section 5(a) of E.O. 14192).

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* rules that are exempt from notice and comment under the Administrative Procedure Act (APA) or any other law are also exempt from the RFA analytical requirements, including conducting a regulatory flexibility analysis. See 5 U.S.C. 603(a) and 604(a).

On December 7, 2022, MARAD published its Tanker Security Program regulations (87 FR 74977) as an IFR without notice and the opportunity for public comment and delayed the effective date ordinarily prescribed by the APA. As discussed in the IFR, MARAD concluded that the rule involved a military function of the United States under 5 U.S.C. 553(a)(1) and was therefore exempt from the requirements of 5 U.S.C. 553. Nonetheless, MARAD also analyzed the rule under 5 U.S.C. 553(b)(B) and determined that it had good cause to waive prior opportunity for notice and comment. For similar reasons, MARAD determined that it had good cause to waive the 30-day delay in effective date under 5 U.S.C. 553. Following publication of the IFR, MARAD received comments and has addressed those comments above under the heading Comments on the Interim Final Rule. Because this rule is exempt from the APA notice and comment requirements, MARAD is not required to conduct a regulatory flexibility analysis.

Executive Order 13132

MARAD analyzed this rulemaking in accordance with the principles and criteria contained in E.O. 13132, *Federalism,* 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.

The Unfunded Mandates Reform Act

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 one 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 final 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 promulgation of a final rule to establish the TSP 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.

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 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.

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 twice 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

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid Office of OMB control number. This OMB approved collection of information is identified under OMB Control Number 2133–0554. The collection is necessary to accept applications, undertake the review of applicant qualifications to ensure applications are complete, monitor participation and vessel availability, and administer and maintain all aspects of the TSP program. The annual burden estimate is $2,438.50.

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.*

List of Subjects 46 CFR Part 294

Maritime carriers, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Maritime Administration adopts the interim rule adding 46 CFR part 294, which was published at 87 FR 74977 on December 7, 2022, as final with the following changes:

■ 1. Part 294 is revised to read as follows:

PART 294—TANKER SECURITY PROGRAM (TSP)

Subpart A—Introduction

Sec.
294.1 Purpose.
294.3 Definitions.
294.5 Applications.
294.7 Procedural waivers.

Subpart B—Establishment of a Tanker Security Fleet

294.9 Product tanker vessel eligibility.
294.11 Owner, charterer, and operator citizenship eligibility requirements.
294.13 Special rule for TSP Fleet Vessel entry age.

Subpart C—Award of TSP Operating Agreements

294.15 Initial award of TSP Operating Agreements.
294.17 Subsequent award of TSP Operating Agreements.
294.19 Nature of award procedure.

Subpart D—TSP Operating Agreements

294.21 General conditions.
294.23 Special terms.
294.25 National security modifications.
294.27 Financial reporting.

Subpart E—Billing and Payment

294.29 Billing procedures.
294.31 Payments.

Subpart F—Appeals Procedures

294.33 Administrative determinations.

Authority: 46 U.S.C. ch. 534, 49 CFR 1.93.

Subpart A—Introduction

§ 294.1 Purpose.

This part prescribes regulations implementing subtitle B of Title XXXV of the National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283), section 3511, and the National Defense Authorization Act for Fiscal Year 2022 (Pub. L. 117–81), section 3515, codified at ch. 534 of title 46, United States Code, governing the establishment of a Tanker Security Fleet of product tank vessels operating in the foreign trade or mixed foreign and domestic commerce of the United States permitted under a registry endorsement issued by the United States Coast Guard. The Department of War (DOW) and the U.S. Department of Transportation (DOT) have joint responsibility for the Tanker Security Fleet, with responsibility delegated to the Commander, United States Transportation Command through the Secretary of War, and the Maritime Administrator through the Secretary of Transportation.

§ 294.3 Definitions.

For the purposes of this part:

(a) *Administrator* means the Administrator, Maritime Administration, United States Department of Transportation.

(b) *Agreement Holder* means the owner or operator of a TSP Fleet Vessel, excluding a trust, that:

(1) Meets the eligibility requirements of 46 U.S.C. 53402(c)(1), (2), (3), or (4); and

(2) Enters into a Tanker Security Program Operating Agreement for the TSP Fleet Vessel with the Secretary of Transportation pursuant to 46 U.S.C. 53403.

(c) *Applicant* means a person applying for a Tanker Security Program Operating Agreement, excluding trusts.

(d) *Classification society* means the American Bureau of Shipping, or another classification society accepted by the Commandant of the United States Coast Guard.

(e) *CAP* means Conditional Assessment Program, a voluntary program offered by classification societies intended to measure and document the actual technical and functional condition of tankers 15 years of age or more.

(f) *Coastwise trade* means waterborne trade between points in the United States as defined in 46 U.S.C. ch. 551.

(g) *Commandant* means the Commandant of the United States Coast Guard.

(h) *Commander* means Commander, USTRANSCOM.

(i) *CR* means continuing resolution.

(j) *Defense Contractor* means a person that operates or manages United States-documented vessels for the Secretary of War, or charters vessels to the Secretary of War, and has entered into a special security agreement with the Secretary of War.

(k) *Documentation Citizen* means a person able to document a vessel under 46 U.S.C. ch. 121. This paragraph (k) includes a United States Citizen Trust.

(l) *DOW* means the United States Department of War.

(m) *Emergency Preparedness Agreement* means a voluntary agreement established by the Maritime Administration (MARAD) under section 708 of the Defense Production Act of 1950, as amended (50 U.S.C. 4558).

(n) *Fiscal Year* means an annual period beginning on October 1 and ending on September 30.

(o) *Fleet* means all Tanker Security Program (TSP) Fleet Vessels at any given time.

(p) *Foreign commerce* means commerce or trade between the United States, its territories or possessions, or the District of Columbia, and a foreign country; and commerce or trade between foreign countries.

(q) *Noncontiguous domestic trade* means the waterborne transportation of cargo between a point in the contiguous 48 States and a point in Alaska, Hawaii, or Puerto Rico, other than a point in Alaska north of the Arctic Circle.

(r) *Person* includes corporations, partnerships, and associations existing under, or authorized by, laws of the United States, or any State, territory, district, or possession thereof, or any foreign country.

(s) *Product tank vessel* means a double-hulled tank vessel capable of carrying simultaneously more than 2 separated grades of refined petroleum products.

(t) *Secretary* means the Secretary of Transportation unless the context indicates otherwise.

(u) *Section 50501 citizen* means a person meeting the statutory qualifications for United States citizenship designation under 46 U.S.C. 50501.

(v) *TSP Fleet Vessel* means any product tank vessel operating under a Tanker Security Program Operating Agreement on or after January 1, 2022, that—

(1) Meets the requirements of 46 U.S.C. 53402(b); and

(2) Is no more than 20 years of age.

(w) *Tanker Security Program Operating Agreement* or *TSP Operating Agreement* means the assistance agreement between an Agreement Holder and MARAD that provides for payments under this part but is not a procurement contract.

(x) *United States Citizen Trust* means:

(1) Subject to paragraph (x)(3) of this section, a trust that is qualified under this paragraph (x).

(2) A trust is qualified only if:

(i) Each of the trustees is a section 50501 citizen; and

(ii) The application for documentation of the vessel under 46 U.S.C. ch. 121, includes the affidavit of each trustee stating that the trustee is not aware of

any reason involving a beneficiary of the trust that is not a section 50501 citizen, or involving any other person that is not a section 50501 citizen, as a result of which the beneficiary or other person would hold more than 25 percent of the aggregate power to influence or limit the exercise of the authority of the trustee with respect to matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States.

(3) If any person that is not a section 50501 citizen has authority to direct or participate in directing a trustee for a trust in matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States or in removing a trustee for a trust without cause, either directly or indirectly through the control of another person, the trust instrument provides that persons who are not section 50501 citizens may not hold more than 25 percent of the aggregate authority to so direct or remove a trustee.

(4) This paragraph (x) will not be considered to prohibit a person who is not a section 50501 citizen from holding more than 25 percent of the beneficial interest in a trust.

(y) *USTRANSCOM* means United States Transportation Command.

(z) *Vessel of the United States* means a merchant vessel that has been documented under 46 U.S.C. ch. 121.

§ 294.5 Applications.

(a) *Applicants.* Each applicant for a TSP Operating Agreement is required to apply to the Tanker Security Program, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Electronic submissions must be submitted to *sealiftsupport@dot.gov.* Application forms are available upon request or may be downloaded from MARAD's website. Required information includes:

(1) An Affidavit of section 50501 citizenship that comports with the requirements of 46 CFR part 355, if applying as a section 50501 citizen. Otherwise, an affidavit which demonstrates that the Applicant is qualified to document a vessel under 46 U.S.C. ch. 121 is required. If the Applicant is a vessel operator and proposes to employ a vessel manager, then the Applicant must supply an affidavit for the vessel manager that meets the same citizenship requirements as the Applicant.

(2) Corporate documents, to include the following:

(i) Certificate of Incorporation or other organization papers, including amendments presently in effect;

(ii) Corporate by-laws or other governing instruments, including amendments presently in effect;

(iii) Form or type of organization, *i.e.,* individual, partnership, corporation, or other organization;

(iv) Federal, State, or other laws under which the Applicant is organized or incorporated, and the date of organization or incorporation;

(v) Address of principal offices, and of important branch offices, if any;

(vi) Description of domestic and international and corporate affiliations, including (but not limited to) parent companies, subsidiary companies, and other related companies within its corporate structure, along with a description of the nature of the business transacted with each affiliated corporation;

(vii) Concerning each officer and director of the Applicant, provide name, address, nationality, number of shares owned and specify type of shares whether voting or non-voting;

(viii) For each individual or entity that owns five percent or more of the outstanding capital shares of any class of stock of the Applicant, include the name, address, nationality, and number of capital shares owned and specify type of shares whether voting or non-voting; and

(ix) A brief statement of the general effect of each voting agreement, voting trust, or other arrangement whereby the voting rights of five percent or more of the outstanding shares of the Applicant are owned, controlled, or exercised by any person not the holder of legal title to such shares. Give the name, address, nationality, and business of any such person, and if not an individual, the form of organization.

(3) Financial data, to include the following:

(i) An audited financial statement or a completed MARAD Form MA–172 dated within 120 days after the close of the most recent fiscal period; and

(ii) Estimated annual forecast of maritime operations for the next five years showing revenue and expense, including explanations of any significant increase or decrease of these items.

(4) Maritime related affiliations including carriers or alliances with which the Applicant maintains an ongoing relationship.

(5) Ongoing business relationships with any refineries, terminals, distributors, or other entities engaged in refined petroleum production and distribution, whether in the United States or in a foreign state, both at the time of application and, if applicable, projected to be established within the five years following the date of application.

(6) Diversity of trading patterns. List of countries and trade routes serviced or trades in which the product tank vessel is to be operated, whether the vessel is to be operated on a voyage charter, or time charter, and any specific tanker pools the vessel is associated with.

(7) Applicant's record of owning or operating product tank vessels, include the following:

(i) Provide the number, type, and size of product tank vessels owned or operated in the last ten years, specifying whether owned or operated, flag(s) of the individual vessels, trades involved, number of employees in your ship operations department, including the number of employees directly employed in U.S.-flag operations;

(ii) Operating experience with product tank vessels in international trade;

(iii) Demonstration of reliability and breadth of services and experience;

(iv) Experience in delivering services in accordance with government contracts or in relation to the carriage of DOW or other government sponsored cargoes;

(v) Vessels owned by the applicant and chartered by other persons;

(vi) Vessels chartered by the applicant from other persons—provide vessel name, flag of registry, period of charter, name of charterer or owner (as applicable) and area of operation;

(vii) Vessel or ship managers utilized in the operation of your vessels; and

(viii) Any other information you believe to be relevant to your record of owning or operating vessels.

(8) Product tank vessel details and operational standards:

(i) Vessel must be a party to the Oil Companies International Marine Forum's Ship Inspection Report (SIRE) System and applicant must provide date of last SIRE report.

(ii) Applicant must confirm acceptances received and/or retained by the vessel since the last SIRE report.

(iii) Applicant must confirm that the vessel has not been rejected or refused by any Charterer since the inspections leading to the said SIRE report.

(iv) Applicant must provide a current Intertanko Standard Tanker Chartering Questionnaire 88 (Q–88) (no more than 60 days old).

(v) Applicant must confirm vessel has vetting approval from at least two oil majors providing date of vetting and name of oil major, at least one vetting approval must be less than six months old at time of application.

(vi) Applicant must provide a copy of vessel's current Class Society issued Safety Management Certificate.

(vii) Applicant must provide a copy of vessel's current Flag State issued International Ship Security Certificate.

(viii) Applicant must confirm vessel's ability to carry one complete un-decanted tank washing in dedicated slop tanks.

(ix) Applicant must submit a General Arrangement Plan, trim and stability booklet, and a set of the ship's capacity and stowage plans. This is to include cargo piping. Applicants are to provide narrative descriptions to accompany the drawings indicating proposed locations of all required spaces and compartments listed in the military requirements.

(x) Applicant must provide evidence of the vessel's most recent U.S. Coast Guard (USCG) and American Bureau of Shipping (ABS) (or other classification society accepted by the Commandant of the Coast Guard), inspections conducted within 12 months of the application.

(xi) Applicant must warrant vessel meets, or will meet, before the start of a TSP Operating Agreement, the requirements of a Quality Management System (QMS). If an applicant does not currently have the required systems in place it will provide a narrative describing how it will have these required systems in place.

(9) Provide an assessment of the utility of the product tank vessel(s) to DOW fuel transportation requirements including any specific national defense sealift features. Provide characteristics that indicate the utility of the product tank vessel(s) to DOW including items of specific value.

(i) Applicant must provide an assessment of the vessel's ability to install CONSOL and the proposed locations for installation. CONSOL details may be found on MARAD's Tanker Security Program website at: *https://www.maritime.dot.gov/national-security/strategic-sealift/tanker-security-program.*

(ii) Owner must confirm vessel's ability to sustain warranted speed of 14 knots, fully laden, in moderate weather (Force 4 on the Beaufort Scale).

(iii) Provide the number and location of available berths for additional personnel beyond the ship crew.

(10) Provide an assessment of the commercial viability of your proposed product tank vessel(s).

(11) Provide any charters or management agreements that would govern the operation of the vessel if selected (pro forma copies are acceptable), including but not limited to the following:

(i) Demise or bareboat charter;

(ii) Vessel management agreement; and

(iii) Crewing agreement.

(12) Special security agreements. If applicable, provide a copy of any special security agreement.

(13) Documentation Citizen. If applicable, the Documentation Citizen must submit a signed certification as the demise charterer of the proposed TSP Fleet Vessel. The certification must provide a statement that there are no treaties, statutes, regulations, or other laws of the foreign country of the parent that would prohibit the proposed Agreement Holder from performing its obligations under a TSP Operating Agreement.

(14) If operating under a foreign parent, the ultimate foreign parent of the Documentation Citizen demise charterer must submit a signed certification. The certification must provide a statement that the foreign parent will not influence the operation of the TSP Fleet Vessel in a manner that will adversely affect the interests of the United States.

(15) For a United States Citizen Trust agreement, if the Applicant intends to place the vessel in a United States Citizen Trust during its operation in the fleet, provide a copy of any such trust agreement (pro forma copies are acceptable).

(16) If applicable, provide a replacement product tank vessel plan if your product tank vessel is a TSP Fleet Vessel over 10 years of age. The replacement product tank vessel plan must include:

(i) The vessel's characteristics as applicable in paragraphs (a)(8) and (9) of this section;

(ii) A letter of intent or other document indicating agreement for purchase of product tank vessel; and

(iii) A forecast of operations for five years for the replacement product tank vessel.

(17) Special rule regarding age of participating TSP Fleet Vessel. Age restrictions will not apply during the first 30-month period beginning on the date the vessel begins operating under the TSP Operating Agreement if the Secretary determines that the participant has entered an arrangement to obtain a replacement vessel that will be eligible to be included in a TSP Operating Agreement.

(18) Provide an anti-lobbying certificate as required by 49 CFR part 20 stating that no funds provided under the TSP have been used for lobbying to obtain a TSP Operating Agreement.

(b) *Procedures for applications*—(1) *Address.* Owners or operators of an eligible vessel may apply to MARAD for inclusion of that vessel in the fleet. Applications may be submitted electronically to *sealiftsupport@dot.gov* or in hard copy to the Tanker Security Program, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

(2) *Time deadlines.* Within 90 days after the close of the application period, the Secretary will approve an application, in conjunction with the Secretary of War, or provide in writing the reason for denial of that application.

(3) *Existing MSP Fleet Vessels.* The Secretary may approve a completed application from an Applicant that, on the date of its application, is operating a product tank vessel in the MSP Fleet in accordance with 46 U.S.C. ch. 531 and 46 CFR part 296.

§ 294.7 Procedural waivers.

In consultation with DOW, MARAD may, at MARAD's own initiation or in response to a request by an interested party, after a finding of good cause, suspend, revoke, amend, or waive any requirement of the regulations in this part, subject to the provisions of the Administrative Procedure Act and any statutory limitations.

Subpart B—Establishment of a Tanker Security Fleet

§ 294.9 Product tanker vessel eligibility requirements.

(a) *Eligibility.* To be eligible to be included in the fleet, the vessel must:

(1) Meet the requirements of § 294.11;

(2) Operate (or in the case of a vessel to be constructed, will be operated) in providing transportation in United States foreign commerce;

(3) Be self-propelled;

(4) Be not more than 10 years of age on the date the vessel is first included in the TSP Fleet;

(5) Be suitable for use by the United States for national defense or military purposes in time of war or national emergency, as determined by the Secretary of War;

(6) Be commercially viable, as determined by the Secretary of Transportation; and

(7) Be—

(i) A vessel of the United States; or

(ii) Not a vessel of the United States, but the owner of the vessel has demonstrated that—

(A) The vessel is eligible for a USCG certificate of inspection; and

(B) The vessel owner intends to have the vessel documented under 46 U.S.C. ch. 121 at the time the vessel is to be included in the TSP Fleet.

(b) *Telecommunications and other electronic equipment.* The

telecommunications and other electronic equipment on an existing vessel that is redocumented under the laws of the United States for operation under a TSP Operating Agreement will satisfy all Federal Communications Commission equipment certification requirements if:

(1) The equipment complies with all applicable international agreements and associated guidelines as determined by the country in which the vessel was documented immediately before becoming documented under the laws of the United States;

(2) The country has not been identified by the Secretary as inadequately enforcing international regulations as to that vessel; and

(3) The equipment, at the end of its useful life, will be replaced with equipment that meets Federal Communications Commission equipment certification standards.

§ 294.11 Owner, charterer, and operator citizenship eligibility requirements.

For a vessel to be eligible to be included in the TSP Fleet, vessel owners, charterers, and operators must evidence that, during the period of a TSP Operating Agreement, one of the following must be true:

(a) The vessel is owned and operated by one or more persons that are citizens of the United States in accordance with 46 U.S.C. 50501.

(b) The vessel is owned by a citizen of the United States in accordance with 46 U.S.C. 50501, or United States Citizen Trust, and the following conditions are met:

(1) The vessel is demise chartered to a person or entity that:

(i) Is eligible to document the vessel under 46 U.S.C. ch. 121;

(ii) Is organized such that the chairman of the board of directors, chief executive officer, and most of the members of the board of directors are citizens of the United States, and are appointed and subjected to removal only upon approval by the Secretary;

(iii) Certifies to the Secretary that there are no treaties, statutes, regulations, or other laws that would prohibit the program participant for the vessel from performing its obligations under a TSP Operating Agreement; and

(iv) In the case of a vessel that is demise chartered to an entity that is owned or controlled by another person or entity that is not a citizen of the United States under 46 U.S.C. 50501, that other person or entity certifies to the Secretary that there are no treaties, statutes, regulations, or other laws that would prohibit the person or entity from performing its obligations under a TSP Operating Agreement and enters into an agreement with the Secretary not to influence the vessel's operation in any way that would be detrimental to the United States.

(2) The Secretary and the Secretary of War notify the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services and the Committee on Transportation and Infrastructure of the House of Representatives that the Secretaries concur with the certifications by the documentation citizen required under § 294.5(a)(13), and any ultimate foreign parent corporation under § 294.5(a)(14), and after a review, agree that there are no legal, operational, or other impediments that would prohibit the owner or operator of the vessel from performing its obligations under a TSP Operating Agreement.

(c) The vessel is owned and operated by a defense contractor, including affiliated or related companies within the same corporate group, that meets the following requirements:

(1) Eligible to document the vessel under 46 U.S.C. ch. 121;

(2) Operates or manages other United States-documented vessels for the Secretary of War, or charters other vessels to the Secretary of War;

(3) Enters into a special security agreement with the Secretary of War;

(4) Certifies to the Secretary, at the time of application and consistent with § 294.5(a)(13), that there are no treaties, statutes, regulations, or other laws that would prohibit the Agreement Holder from performing its obligations under a TSP Operating Agreement; and

(5) Any foreign corporate parent company of the Defense Contractor proffers, at the time of application for a TSP Operating Agreement, an agreement consistent with § 294.5(a)(14), not to influence the vessel's operation in a way that is detrimental to the United States.

(d) The vessel is owned by a Documentation Citizen in accordance with 46 U.S.C. ch. 121 and demise chartered to a Citizen of the United States in accordance with 46 U.S.C. 50501.

§ 294.13 Special rule for TSP Fleet Vessel entry age.

An Applicant may apply for a TSP Operating Agreement with a vessel that exceeds the maximum entry age requirement of § 294.9(a)(4), if it satisfies the following conditions:

(a) The Applicant demonstrates their intent to replace the non-compliant vessel within 30 months after the commencement of operations under a TSP Operating Agreement;

(b) Nominated vessels 15 years or older must be enrolled in a classification society's CAP and be rated equivalent to ABS CAP 2 or better; and

(c) The Secretary determines that the Applicant has entered into an agreement to obtain and operate a replacement product tank vessel which, upon commencing operation under the same TSP Operating Agreement for the non-compliant vessel, will be eligible to be included in the fleet under § 294.9.

Subpart C—Award of TSP Operating Agreements

§ 294.15 Initial award of TSP Operating Agreements.

(a) *Number of agreements.* The Secretary, in concurrence with the Secretary of War, may award up to ten TSP Operating Agreements for the operation of product tank vessels from among those applications submitted by qualified Applicants. If the Secretary and the Secretary of War are unable to select ten vessels for inclusion in the TSP Fleet from their initial review of applications, they may accept additional applications for review to ensure that the Secretary can award ten TSP Operating Agreements.

(b) *Vessel selection priority.* In consideration of the applications, the Secretary and the Secretary of War will consider each Applicant's vessel(s)'s qualifications as they relate to subpart B of this part and will give priority to applications based on the criteria in paragraphs (b)(1) through (4) of this section, in order of priority:

(1) Vessel capabilities, as established by the Secretary of War;

(2) Applicant's record of vessel ownership and operation of tanker vessels;

(3) Applicant's citizenship, with preference for section 50501 citizens; and

(4) Location of vessel construction, with preference for vessels built in the United States.

(c) *Consideration of applications requesting an age waiver.* If an Applicant applies for a TSP Operating Agreement under the provisions of this section, the Secretary and the Secretary of War will consider:

(1) Whether the vessel is enrolled in its class society's CAP and has maintained a rating equivalent to ABS CAP 2 or better;

(2) The vessel priority factors in paragraph (b) of this section for both the proposed non-compliant vessel and the vessel proposed to replace the non-compliant vessel within the initial 30

months of the TSP Operating Agreement; and

(3) The feasibility of the Applicant's plan to obtain and operate the compliant replacement vessel within the initial 30 months of the TSP Operating Agreement.

(d) *Notification to Applicants.* After the Secretary, in concurrence with the Secretary of War, has selected those vessels to be included in the TSP Fleet, the Secretary will notify all Applicants as to whether their applications were successful or unsuccessful.

(1) For each successful application, the Secretary will extend an offer to the Applicant to enter into one or more TSP Operating Agreements, based on the number of vessels selected from the Applicant's application for inclusion into the TSP Fleet.

(2) For each unsuccessful application, the Secretary will inform the Applicant of the reason(s) why the application was unsuccessful.

§ 294.17 Subsequent award of TSP Operating Agreements.

(a) *Availability.* When a TSP Operating Agreement becomes available through termination by the Secretary or early termination by an Agreement Holder, or if Congress expands the maximum authorized fleet size by statute, and no transfer under 46 U.S.C. 53405(e) is involved, MARAD will accept applications for a new TSP Operating Agreement pursuant to paragraphs (a)(1) through (3) of this section:

(1) The proposed vessel must meet the requirements of § 294.9;

(2) The Applicant must meet the requirements of § 294.11; and

(3) The Applicant must apply in accordance with the requirements of § 294.5.

(b) *Consideration of applications.* The Secretary and the Secretary of War will consider all applications within the priority structure of § 294.15(b).

(c) *Notification and award of a new TSP Operating Agreement.* Upon selection of the best-qualified vessel(s) from among the applications received, MARAD will enter into a new TSP Operating Agreement with the successful Applicant as soon as is practicable. Successful Applicants must notify the Secretary of their acceptance of an offer to enter into a TSP Operating Agreement within 90 days.

§ 294.19 Nature of award procedure.

TSP furthers a public purpose and MARAD does not acquire goods or services through TSP. Therefore, the selection process for awarding TSP Operating Agreements does not constitute an acquisition subject to procurement law or the Federal Acquisition Regulation in title 48 of the Code of Federal Regulations.

Subpart D—TSP Operating Agreements

§ 294.21 General conditions.

(a) *Number of agreements.* The Secretary may enter into up to ten TSP Operating Agreements for vessels that were either selected in accordance with § 294.15 or which, on the effective date of a TSP Operating Agreement, were operating under an MSP Operating Agreement in accordance with 46 U.S.C. ch. 531 and 46 CFR part 296, for fiscal year 2022 and any prior fiscal year. The Secretary may enter into as many additional agreements as is authorized under 46 U.S.C. 53403(c) under the same terms as the initial ten agreements.

(b) *Term of agreements.* TSP Operating Agreements are authorized for 19 years, starting on October 1, 2021, and ending on September 30, 2040, but payments to Agreement Holders are subject to annual appropriations each fiscal year. MARAD may enter into TSP Operating Agreements for a period less than the full term authorized under 46 U.S.C. ch. 534.

(c) *Replacement vessels.* An Agreement Holder may replace a vessel under a TSP Operating Agreement with another vessel that is eligible to be included in the fleet under § 294.9, if the Secretary, in conjunction with the Secretary of War, approves the replacement vessel.

(d) *Termination by the Secretary.* Except as provided in § 294.23(d)(3), if an Agreement Holder fails to comply with the terms of a TSP Operating Agreement:

(1) The Secretary will notify the Agreement Holder and provide a reasonable opportunity for the Agreement Holder to comply with the terms and conditions of the TSP Operating Agreement; and

(2) The Secretary will terminate the TSP Operating Agreement if the Agreement Holder fails to achieve such compliance.

(e) *Eligibility of Vessel on long-term charter to the Government.* Except as provided in § 294.23(d)(2), a TSP Fleet Vessel that is time chartered to the United States Government for a period that, together with options for extension, occurs for more than 180 continuous calendar days is ineligible to participate in the TSP Fleet as of the date and time the vessel is delivered to, and accepted by, the Government under the terms of the time charter. The Secretary may terminate the relevant Operating Agreement at that time unless the Operating Agreement holder has offered a qualified replacement vessel in accordance with paragraph (c) of this section.

(f) *Early termination by an Agreement Holder.* The Agreement Holder must notify the Secretary no later than 60 days before the proposed effective termination date that the Agreement Holder intends to terminate the TSP Operating Agreement. Even after early termination of the Operating Agreement, the Agreement Holder will remain bound by the provisions related to vessel documentation and national security requirements, including any commitments under an Emergency Preparedness Agreement, for the full term of the TSP Operating Agreement.

(g) *Nonrenewal for lack of funds.* If, by the first day of a fiscal year, sufficient funds have not been appropriated under the authority of 46 U.S.C. ch. 534 for that fiscal year, the Secretary will notify the Senate Committees on Armed Services, Commerce, Science, and Transportation, and Appropriations, and the House of Representatives Committees on Armed Services and Appropriations, that TSP Operating Agreements for which sufficient funds are not available will not be renewed for that fiscal year if sufficient funds are not appropriated by the 60th day of that fiscal year. (If Congress does not appropriate funds at the authorized level by the 60th day of the fiscal year, MARAD will pay each vessel its *pro rata* share of the funds that have been appropriated.) If no funds are appropriated by the 60th day of the fiscal year, and notwithstanding any other provision, then all TSP Operating Agreements will be terminated, and each Agreement Holder will be released from its obligations under the TSP Operating Agreement. Final payments under the terminated TSP Operating Agreements will be made in accordance with § 294.31. To the extent that funds are appropriated in a subsequent fiscal year, former TSP Operating Agreements may be reinstated if mutually acceptable to the Administrator and the Agreement Holder, provided the TSP vessel remains eligible to operate under the Operating Agreement.

(h) *Release of vessels from obligations.* For Agreement Holders who have been released from their obligations under a TSP Operating Agreement due to lack of funds in any fiscal year by the 60th day of that fiscal year:

(1) The Agreement Holder may transfer and register each vessel covered by a terminated TSP Operating Agreement to a foreign registry that is

acceptable to the Secretary and the Secretary of War, notwithstanding 46 U.S.C. ch. 561 and 46 CFR part 221;

(2) If 46 U.S.C. ch. 563 is applicable to a vessel that has been transferred to foreign registry due to the termination of a TSP Operating Agreement, then that vessel remains available to be requisitioned by the Secretary pursuant to 46 U.S.C. ch. 563; and

(3) The provisions of this section do not apply to vessels under TSP Operating Agreements that have been terminated for any other reason.

(i) *Transfers of TSP Operating Agreements.* An Agreement Holder may transfer a TSP Operating Agreement, including all rights and obligations under the TSP Operating Agreement, to any person that is eligible under § 294.11 to enter into a TSP Operating Agreement, if the Secretary and the Secretary of War jointly determine that the transfer is in the best interests of the United States. A transaction is not considered a transfer of a TSP Operating Agreement if the same legal entity with the same vessels remains the Agreement Holder under the TSP Operating Agreement.

§ 294.23 Special terms.

(a) *TSP Operating Agreement.* Each TSP Operating Agreement will require that, during the period a TSP Fleet Vessel is operating under that TSP Operating Agreement, the TSP Fleet Vessel must:

(1) Be documented as a vessel of the United States under 46 U.S.C. ch. 121;

(2) Operate exclusively in:

(i) Foreign commerce;

(ii) Mixed foreign commerce and domestic trade permitted under a registry endorsement issued under 46 U.S.C. 12111, and to those points identified in 46 U.S.C. 55101(b);

(iii) Foreign-to-foreign commerce; or

(iv) Under charter to the United States, except as provided in 46 U.S.C. 53404(b); and

(3) Not otherwise operate in the coastwise trade of the United States;

(4) Not receive payments during a period in which the Agreement Holder owns, operates, or charters a vessel engaged in noncontiguous domestic trade, unless the Agreement Holder is a section 50501 citizen, applying the 75 percent ownership requirements of 46 U.S.C. 50501; and

(5) Enroll, for vessels 15 years or older, in their classification society's CAP and maintain a CAP rating of two or better.

(b) *Operating agreement as an obligation of the United States Government.* The amounts payable to an Agreement Holder under a TSP Operating Agreement constitute a contractual obligation of the United States Government to the extent of actual appropriations.

(c) *Operating under a Continuing Resolution.* In the event funds are available under a Continuing Resolution (CR), the terms and conditions of the TSP Operating Agreements will be in force and only for the period stipulated in the applicable CR. MARAD will continue to pay under each Operating Agreement to the extent of actual appropriations. For any Agreement Holder with a TSP Operating Agreement that does not receive funds, the terms and conditions of any applicable TSP Operating Agreement may be voided, and the Agreement Holder may request termination of the TSP Operating Agreement.

(d) *National security.* (1) Each TSP Operating Agreement will require the Agreement Holder to enter into a Voluntary Tanker Agreement (VTA), as approved by the Secretary and the Secretary of War, or other agreement approved by the Secretaries.

(2) No vessel that is operating under a charter from DOW pursuant to an activation under VTA or a similar agreement will be subject to the requirements of § 294.21(e), as determined by the Maritime Administrator.

(3) The Secretary will not terminate an Operating Agreement with an Agreement Holder if the TSP Fleet Vessel covered by the relevant Operating Agreement suffers a marine casualty while operating under a VTA activation, provided that the Agreement Holder makes all reasonable efforts to repair or replace the affected vessel in a timely manner, as determined by the Maritime Administrator.

(e) *United States Merchant Marine Academy cadet training.* The Agreement Holder must agree:

(1) To carry on the TSP Fleet Vessel two United States Merchant Marine Academy cadets, if available, on each voyage; and

(2) To implement prior to accepting an Operating Agreement appropriate policies, programs, and criteria necessary to comply with all MARAD cadet safety guidelines that address sexual harassment, sexual assault, and other inappropriate conduct.

(3) Upon a finding of non-compliance, the Administrator may require the Agreement Holder to take corrective actions or find such failure to constitute a violation of the TSP Operating Agreement.

(f) *Notice of vessel maintenance and repair.* The Agreement Holder must notify MARAD any time the TSP Fleet Vessel will enter a period of maintenance, survey, inspection, or repair such that the TSP Fleet Vessel is unable to move under its own power or is unable to meet its national security obligations under paragraph (d) of this section if immediately called to do so under the terms of VTA.

§ 294.25 National security modifications.

A participant agrees to the installation onboard its TSP Fleet Vessel of militarily useful features for national defense purposes as approved by U.S. Coast Guard and the vessel's classification society.

§ 294.27 Financial reporting.

The Agreement Holder must submit the following reports to MARAD, including management footnotes where necessary to make a fair financial presentation:

(a) *Vessel operating cost information.* Not later than 120 days after the close of the Agreement Holder's semiannual accounting period, a Form MA–172 on a semiannual basis, in accordance with 46 CFR 232.6; and

(b) *Financial statement.* Not later than 120 days after the close of the Agreement Holder's annual accounting period, an audited financial statement in accordance with 46 CFR 232.6 and the most recent vessel operating cost data submitted as part of its Emergency Preparedness Agreement, or if not current year data, a Schedule 310 of the MA–172.

Subpart E—Billing and Payment

§ 294.29 Billing procedures.

All Agreement Holders must submit a voucher to MARAD for payment. For Agreement Holders operating under more than one TSP Operating Agreement, the Agreement Holder may submit a single monthly voucher applicable to all its TSP Operating Agreements. Each voucher submission must include a certification that the vessel(s) for which payment is requested were operated in accordance with § 294.23(a) and applicable TSP Operating Agreements. All submissions must be forwarded to the Tanker Security Program, MARAD, via email to *sealiftsupport@dot.gov.* Payments will be paid and processed under the terms and conditions of the Prompt Payment Act, 31 U.S.C. 3901, *et seq.*

§ 294.31 Payments.

(a) *Amount payable.* A TSP Operating Agreement will provide for each TSP Fleet Vessel, an annual payment, subject to the availability of appropriations, equal to: $6,000,000 for fiscal years (FY) 2022 to 2024; $8,160,000 for FY 2025

and 2026; $8,380,000 for FY 2027 and 2028; $8,606,000 for FY 2029 and 2030; $8,839,000 for FY 2031 and 2032; $9,078,000 for FY 2033 and 2034; $9,323,000 for FY 2035 and 2036; $9,574,000 for FY 2037 and 2038; and $9,833,000 for FY 2039 and 2040. This amount will be paid in equal monthly installments at the end of each month. The annual amount payable, to the extent of actual appropriations, will not be reduced except as provided in paragraphs (b) and (c) of this section.

(b) *Reductions in amount payable.* The annual amount otherwise payable under a TSP Operating Agreement will be reduced on a pro rata basis:

(1) For each day less than 320 days in a fiscal year that a TSP Fleet Vessel is not operated in accordance with § 294.23(a)(1) through (3); or

(2) If Congress does not appropriate funds at the authorized level by the 60th day of the fiscal year.

(c) *No payment.* (1) Regardless of whether the Agreement Holder has or will operate the TSP Fleet Vessel for 320 days a year, the Agreement Holder will not be paid:

(i) For any day in which the TSP Vessel is engaged in transporting more than 7,500 tons of civilian bulk preference cargoes pursuant to 46 U.S.C. 55302(a), 55305, or 55314 (using the United States standard of short tons, which is equivalent to 6,803.85 metric tons or 6,696.75 long tons);

(ii) During a period in which the Agreement Holder participates in noncontiguous domestic trade, unless that Agreement Holder is a section 50501 citizen, applying the 75 percent ownership requirement of section 50501;

(iii) For any days in which the Agreement Holder operates a TSP Vessel that is 15 years or older which is not enrolled in their classification society's CAP or is not maintaining a CAP rating of two or better;

(iv) For any day in which the Agreement Holder operates a TSP Vessel that is more than 20 years of age;

(v) For days in excess of 30 days in a fiscal year in which a vessel is drydocked or undergoing survey, inspection, or repair, unless, prior to the expiration of the vessel's 30-day drydock and repair period, the Agreement Holder obtains approval from MARAD for an extension beyond 30 days;

(vi) For any day in which the Agreement Holder does not, at the request of the Administrator, carry up to two United States Merchant Marine Academy cadets onboard; and

(vii) If the Agreement Holder does not operate or maintain the TSP Fleet Vessel in accordance with the terms of the TSP Operating Agreement.

(2) To the extent that non-payment days under this paragraph (c) are known, Agreement Holder payments will be reduced at the time of the current billing. The daily reduction amounts will be based on the annual amounts in paragraph (a) of this section divided by 365 days (366 days in leap years) and rounded to the nearest cent.

(3) MARAD may require, for good cause, that a portion of the funds payable under this section be withheld if the provisions of § 294.23(a) have not been met.

(4) Amounts owed to MARAD for reductions applicable to a prior billing period must be electronically transferred using MARAD's prescribed format, or the amount owed can be credited to MARAD by offsetting amounts payable in future billing periods.

Subpart F—Appeals Procedures

§ 294.33 Administrative determinations.

(a) *Policy.* An Agreement Holder who disagrees with the findings, interpretations, or decisions of MARAD with respect to the administration of this part or any other dispute or complaint concerning the Agreement Holder's TSP Operating Agreement(s) may submit an appeal to the Administrator. The appeals must be made in writing to the Maritime Administrator, within 60 days following the date of the document notifying the Agreement Holder of the administrative determination of MARAD. Such an appeal should be addressed to the Maritime Administrator, Attn.: TSP Operating Agreement Appeals, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 or via email to *sealiftsupport@dot.gov.* An appeal is a prerequisite to exhausting administrative remedies.

(b) *DOW determinations.* Chapter 534 of title 46, United States Code, assigns joint and separate roles and responsibilities to the Secretary and the Secretary of War. The Administrator and the Commander will make joint and separate findings, interpretations, and decisions necessary to implement 46 U.S.C. ch. 534. An Agreement Holder who disagrees with the initial findings, interpretations, or decisions regarding the implementation of 46 U.S.C. ch. 534—whether joint or separate in nature—must communicate such disagreement to MARAD. Any disagreement or dispute of an Agreement Holder may, where determined appropriate by MARAD, be transferred to the Director of Strategic Plans, Policy, Logistics, and War-Fighting Development, U.S. Transportation Command (Director) for resolution. An Agreement Holder who disagrees with the findings, interpretations, or decisions of the Director with respect to the administration of this part, may submit an appeal to the Commander. Such an appeal must be made in writing to the Commander within 60 days following the date of the document notifying the Agreement Holder of the administrative determination of the Director. Such an appeal should be addressed to the Commander, United States Transportation Command, 508 Scott Drive, Scott Air Force Base, IL 62225–5357. or via email to *transcom.scott.tccc.mbx.commander@mail.mil.*

(c) *Process.* The Administrator, or the Commander in the case of a DOW determination, may require the person making the request to furnish additional information, or proof of factual allegations, and may order a proceeding. The decision of the Administrator, or the Commander in the case of a DOW determination, will be administratively final.

(Authority: 46 U.S.C. ch. 534, 49 CFR 1.93)

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–12547 Filed 6–22–26; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 10

[Docket No. FWS–HQ–LE–2026–0628; FXLE12200900000–267–FF09L00000]

RIN 1018–BJ16

Definition of Shellfish; Inclusion of Cephalopods

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are amending the definition of ''shellfish'' in the Code of Federal Regulations (CFR) by removing the phrase ''having a shell'' and adding specific taxa. This amendment will clarify that squid, cuttlefish, octopus, and other cephalopods are included within the regulatory definition of shellfish. This action is deregulatory in nature, as it reduces regulatory ambiguity, aligns the

Service's regulations with current biological understanding and commercial practice, reduces regulatory burden and is within the Service's purview to amend definitions as needed.

DATES: This rule is effective July 23, 2026.

ADDRESSES: Public comments and materials received, as well as supporting documentation used in the preparation of this final regulation, are available at *https://www.regulations.gov* at Docket No. FWS–HQ–LE–2026–0628.

FOR FURTHER INFORMATION CONTACT: Douglas R. Ault, Assistant Director, Office of Law Enforcement, U.S. Fish and Wildlife Service, (703) 358–1949. 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:

Background

The regulations in 50 CFR part 10 establish definitions applicable throughout title 50 of the Code of Federal Regulations governing wildlife and wildlife products under the jurisdiction of the Service. Section 10.12 defines ''shellfish'' as ''any species of mollusk having a shell,'' a formulation that reflects historical terminology rather than contemporary biological classification or modern commercial use.

Cephalopods—including squid, cuttlefish, octopus, and nautilus—are mollusks but are characterized by either an internal shell, a reduced shell, or no shell at all. (*Merriam-Webster's Collegiate Dictionary* (12th ed. 2025)). Similarly, Cephalopods are members of the Cephalopoda family, which includes Ammonites, characterized by a flat-coiled spiral shell. (*Oxford English Dictionary* (3d. ed., June 2026)). As a result, the current regulatory definition has created ambiguity as to whether cephalopods qualify as shellfish for purposes of wildlife importation, exportation, declaration, inspection, and enforcement under 50 CFR parts 10, 14, and related provisions.

In practice, this ambiguity has led to inconsistent treatment of cephalopod products at ports of entry, confusion among regulated entities, and unnecessary regulatory burden on importers, exporters, and enforcement personnel.

Effects of the Final Rule

After consideration of the information provided through the public comment process, we are finalizing this rule with minor grammatical corrections. We are adding the term ''Phylum'' before the word Mollusca in subparagraph (1) and adding a comma after ''but not limited to'' in subparagraphs (1) and (2). We are also removing the words ''an'' in subparagraph (1) and ''a'' in subparagraph (2). We have provided responses to questions and concerns submitted during the public comment period under Summary of Comments and Responses, below.

In finalizing the specific change to the current regulations in the rule portion of this document and setting out the accompanying clarifying discussion in this preamble, we are establishing prospective standards only. These regulations will apply to shipments being imported into or exported out of the United States on or after the effective date of this rule and will not apply retroactively to shipments that were imported or exported prior to the effective date of this rule. For the effective date of this rule see **DATES**, above. Nothing in these revisions to the regulations is intended to require that the Service reevaluate actions taken on shipments of affected species imported or exported prior to the effective date of this rule on the basis of these final regulations.

Summary of Comments and Responses

In our March 6, 2026, proposed rule (91 FR 11019), we requested public comments by April 6, 2026. We received a total of 69 comments, 66 of which contained substantive remarks on the proposed rule with specific support or opposition to the definition change. One of the substantive comments was an exact duplicate of another and submitted by the same commenter. Two of the comments were non-substantive in nature, expressing either general opposition or support to the proposed rule with no supporting information or analysis. One comment contained no information. Commenters included individual members of the public, industry members and representative organizations, non-governmental and environmental organizations, and a Federal agency, among others. Below, we summarize and respond to the significant, substantive comments we received.

Comments regarding biological, ecological and conservation concerns: The Service received comments from the cephalopod industry and their representative organizations, and one Federal agency, the U.S. Small Business Administration Office of Advocacy, supporting the proposed rule stating that the change better aligns with commercial use and scientific understanding of the species in question.

The Service received comments opposed to the rule due to concerns that cephalopods are biologically distinct from shellfish and should not be consolidated into the same category as shellfish. These comments also stated that the very disparate source and harvest methods used for shellfish and cephalopods, primarily aquaculture for shellfish and various methods of wild harvest for cephalopods, do not support applying the same regulations to both taxa. Additionally, concerns were raised that the proposed rule ignores known risks to wild populations of cephalopods due to poorly regulated international harvesting. Some comments raised questions related to animal welfare due to the intelligence of cephalopods and the lack of control over international harvest methods.

Several comments raised concern regarding traceability and data loss that could be critical to monitoring and ensuring sustainability of wild populations and trade. Several comments mentioned concerns that this proposed rule would undermine ecological management of cephalopod populations and their sustainability based on known concerns about the lack of regulations governing international sourcing of cephalopods. They raised concerns that the proposed rule shows a lack of thorough analysis of impacts of this rule on conservation and ecological management and sustainability. The Service received comments from the public and the shellfish industry stating that the proposed rule does not align with current scientific and taxonomic treatment of these species, or the common usage of the term ''shellfish'' both within the industry and within vernacular language.

Response: While the Service acknowledges these concerns, this rule is intended to align with the statutory language (16 U.S.C. 1538(d)–(f)) exempting shellfish and fishery products for human or animal consumption and to clarify whether the Service's import/export regulations apply to cephalopods. Current scientific classification agrees that cephalopods are mollusks, whether an external shell is present or not. Multiple other biological characteristics define the group of animals including a soft, unsegmented body and living in a damp or aquatic habitat, with some members of the group having a hard, external

shell. Most cephalopods possess a hard internal shell rather than an external shell, thus still qualifying them as shellfish. One instance where the accepted definition clearly includes cephalopods is in the case of a medical term for ''shellfish allergy.'' (Wai, et al. 2020, Gelis, et al. 2020). Squid, octopus, and cuttlefish are all included when referencing the common sources of shellfish allergies in the medical community, despite their not having an external shell. Rather than leave ambiguity, the Service is clarifying that the term shellfish includes cephalopods to align with the scientific nomenclature.

Comments concerning enforcement considerations: Some comments supported the proposed rule stating that it reduces ambiguity in the regulatory requirements and introduces consistency and clarity to the import/export process. These comments also contend that there is sufficient regulatory oversight from other Federal and State agencies upon harvest, as well as import, and this rule would eliminate duplicative efforts by the Service.

The Service received numerous comments raising concerns that the proposed rule creates gaps in regulatory oversight, both within the Service and between Federal agencies; weakens import controls including allowing a mechanism for tariff evasion; and hinders detection of illegal trade and IUU fishing of cephalopods. One comment stated that cephalopods are subject to growing legislative scrutiny and that this proposed rule could undermine efforts by the States and others to regulate this commodity.

Response: The Service appreciates the concerns raised regarding these enforcement considerations. The Service works closely with its Federal and State agency partners to ensure proper oversight and enforcement actions within our jurisdictions. While cephalopods will no longer be subject to certain import/export requirements, the Service retains authority to inspect all shipments being imported into or exported from the United States and to ensure the legality of wildlife trade when there are concerns of potential illegal activities being conducted.

Comments concerning the effects on trade and the public: Multiple industry commenters expressed strong support for the proposed rule due to the reduced costs to the U.S. cephalopod industry which would in turn be passed on to consumers. Comments stated that U.S. businesses would benefit from the improved regulatory efficiency since other Federal and State agencies provide oversight of this trade. Commenters also stated that the U.S. cephalopod industry would benefit from streamlined import and export procedures with the removal of limitations on ports of entry and exit and delays due to waiting for clearance from the Service. One commenter supported the proposed rule stating that the current definition is confusing, costly, redundant, and misdirected. The commenter argues that the proposed rule's removal of an unnecessary burden from the industry would allow the FWS to better focus on mission priorities such as wildlife trade. Another commenter supports the proposed rule in order to correct an outdated classification. The commenter appreciates that the proposed rule would align the Service's definition with that of other federal agencies, with international trade designations, and the scientific taxonomy of Mollusca, and, finally, enhance global competitiveness for U.S. seafood producers. One commenter argued that the current definition disadvantages U.S. seafood producers relative to foreign competitors and the proposed rule would remove additional costs and logistical obstructions currently placed on U.S producers by the U.S. government that hinder performance in international markets. One commenter supports the proposed rule and further comments on the lack of evidence that squid fisheries are more vulnerable to criminal or illegal activity than other types of fisheries included in the Service's current definition of shellfish.

The Service also received some comments expressing concern over the potential effects of this proposed rule on the U.S. seafood trade and impacts to consumers and the public. These comments argued that the proposed rule would negatively affect U.S. businesses by reducing accountability and consumer confidence in product sourcing. Additionally, some comments argued this rule could benefit foreign trade competitors over U.S. businesses by removing the oversight mechanisms that ensure foreign competitors are held to the same high standards as U.S. businesses. Some comments stated that local fishing communities could be negatively affected by competition from foreign sourced products. One commenter preferred the current definition of shellfish, urging the Service to reject taxonomic definitions and maintain existing physical criteria for the regulation which includes bivalves while excluding other members of Mollusca. Another commenter described concerns with the proposed rule's potential impact on the sustainable aquaculture industry.

Response: The Service appreciates the significant engagement from producers and from industry organizations and the supportive comments regarding the potential impact of the proposed rule. The Service values the concerns raised in some of the comments submitted, however, no one supplier or industry is being favored over another with this clarification of a definition. Rather all in the industry are subject to the same regulatory authority and, given that the Service retains the authority to inspect and ensure the legality of all wildlife shipments, and our close coordination with our Federal and State regulatory partners, proper oversight of this industry will be maintained. The question of whether a particular practice is sustainable falls outside the scope of this rulemaking, which is limited to revising the regulatory definition. Evaluating the sustainability of practices involves separate analyses and policy considerations that are not part of this definition change.

Comments concerning lack of analysis of and justification for the proposed rule: The Service received multiple comments asserting that the proposed definition change is a significant change to the regulations and as such requires thorough consideration of the impact of the change to both industry and conservation to ensure it is in the best interests of the American public and businesses. These comments stated that a thorough economic analysis and examination of the extent of the impacts of this proposed rule are warranted. Additional comments stated that the proposed rule lacked sufficient justification for the need for the change.

Response: The Service acknowledges the concerns raised in these comments; however, the rule aligns with our statutory authority. Pursuant to 5 U.S.C. 605(b), in the publication of the proposed rule, the Service certified that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Accordingly, an initial Regulatory Flexibility Analysis is not required. This rule clarifies a regulatory definition and reduces compliance obligations that should result in a cost savings for small businesses. This rule does not establish new compliance requirements, reporting obligations, or performance standards for small entities, including small businesses, small nonprofit organizations, or small governmental jurisdictions as defined in 5 U.S.C. 601, thus, a detailed economic analysis is not necessary. Similarly, the Service has determined that the proposed rule provided sufficient justification to

support the change to the shellfish definition at 50 CFR 10.12.

Comments requesting the inclusion of additional species: The Service received several requests to include red and purple sea urchins and one request to include sea cucumbers in the revised definition to exempt them from Service import/export requirements as well.

Response: Red and purple sea urchins and sea cucumbers are not mollusks rather they are echinoderms. (*Oxford English Dictionary* (3d. ed., June 2026)). An echinoderm is radially symmetrical unlike mollusks where symmetry is not considered under current literary definitions. (*Merriam-Webster's Collegiate Dictionary* (12th ed. 2025)). Additionally, Echinodermata phylum as a species frequently has fivefold radial symmetry, like the starfish, hardly comparable to commonly understood species of shellfish. (*Oxford English Dictionary* (3d. ed., June 2026)). Both sea urchins and sea cucumbers are more closely related to sand dollars and sea stars than to squid, lobster, or octopus. They differ significantly from the members of Mollusca. Sea urchins and sea cucumbers lack the mantle and muscular foot that characterizes most mollusks, even when the external shell is absent. Many mollusks are carnivorous, herbivorous or filter feeders with specialized feeding structures while the echinoderms are detritivores and consume sediment and organic debris, or floating particles. Finally, sea urchins and sea cucumbers have a unique water vascular system that all the members of Mollusca lack. Therefore, FWS declines to include sea cucumbers and sea urchins in the definition of shellfish.

Required Determinations

Executive Orders 12866 and 13563 (Regulatory Planning and Review)

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency must publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions).

This final rule clarifies a regulatory definition and is deregulatory in nature and should result in cost savings for small businesses. This final rule does not establish new, and reduces existing, compliance requirements, reporting obligations, or performance standards to the benefit of small entities, including small businesses, small nonprofit organizations, or small governmental jurisdictions as defined in 5 U.S.C. 601. However, we do not expect this potential effect to rise to the level of a significant economic effect nor affect a substantial number of small entities. Therefore, pursuant to 5 U.S.C. 605(b), the Service hereby certifies that this rule will not have a significant economic effect on a substantial number of small entities.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act, we have determined the following:

(a) A Small Government Agency Plan is not required. We are the lead agency for carrying out regulations that govern and monitor the importation and exportation of wildlife and for carrying out U.S. obligations under the Convention on International Trade in Endangered Species (CITES). No small government assistance or impact is expected as a result of this proposed rule. Therefore, this proposed rule has no effect on small governments or their responsibilities.

(b) This rule will not produce a Federal requirement that may result in the combined expenditure by State, local, or Tribal governments of $100 million or greater in any year, so it is not a significant regulatory action under the Unfunded Mandates Reform Act. This rule will not result in any combined expenditure by State, local, or Tribal governments.

Takings (E.O. 12630)

Under E.O. 12630, this rule does not have significant takings implications. This rule does not affect any constitutionally protected property rights. It will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. A takings implication assessment is not required. The purpose of this rule is to clarify and streamline the requirements and processes related to the import and export of wildlife at U.S. ports and borders. Therefore, this rule does not have significant takings implications.

Federalism (E.O. 13132)

Under E.O. 13132, this rule does not have significant federalism effects. A federalism summary impact statement is not required. This proposed rule will not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Civil Justice Reform (E.O. 12988)

In accordance with E.O. 12988 (Civil Justice Reform), this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (''Government-to-Government Relations With Native American Tribal Governments;'' 59 FR 22951, May 4, 1994), E.O. 13175 (''Consultation and Coordination with Indian Tribal Governments''), the President's memorandum of November 30, 2022 (''Uniform Standards for Tribal Consultation;'' 87 FR 74479, December 5, 2022), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes and Alaska Native Corporations on a government-

to-government basis. In accordance with S.O. 3206 of June 5, 1997 (''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act''), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collection of information that requires approval by the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have analyzed this rule in accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), the Department of the Interior (DOI) NEPA implementing regulations at 43 CFR 46.210, and the DOI Handbook of National Environmental Policy Act Implementing Procedures (516 DM 1).

We have determined that there will be no significant individual or cumulative effect on the environment with the revision of the definition of ''shellfish'' in 50 CFR 10.12 and have applied the Department of the Interior categorical exclusion for ''Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case'' (43 CFR 46.210(i)). We have also determined the extraordinary circumstances listed in 43 CFR 46.215 do not apply to the direct effects of this rule.

Energy Supply, Distribution, or Use (E.O. 13211)

On May 18, 2001, the President issued E.O.13211 on regulations that significantly affect energy supply, distribution, and use. E.O.13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

List of Subjects in 50 CFR Part 10

Exports, Fish, Imports, Law enforcement, Plants, Transportation, Wildlife.

For the reasons set forth in the preamble, we amend part 10, subchapter B of chapter 1, title 50 of the Code of Federal Regulations as follows:

PART 10—GENERAL PROVISIONS

■ 1. The authority citation for part 10 continues to read as follows:

Authority: 16 U.S.C. 668a–d, 703–712, 742a–j–l, 1361–1384, 1401–1407, 1531–1543, 3371–3378; 18 U.S.C. 42; 19 U.S.C. 1202.

Subpart B—Definitions

■ 2. Amend § 10.12 by revising the definition of ''Shellfish'' to read as follows:

§ 10.12 Definitions.

* * * * *

Shellfish means an aquatic invertebrate animal of the following taxa:

(1) Phylum Mollusca, including but not limited to, oysters, clams, squid, octopus, or cuttlefish; and

(2) Order Decapoda, including, but not limited to, lobsters, crabs, crayfish, shrimp or other crustaceans; and

(3) Any part, product, egg or offspring thereof, or the dead body or parts thereof (excluding fossils), of any species included in paragraphs (1)–(2) of this definition, whether or not included in a manufactured product or in a processed food product.

* * * * *

Kevin Lilly,

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

[FR Doc. 2026–12578 Filed 6–22–26; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

[Docket No. FWS–R7–MB–2025–1694; FXMB12610700000–267–FF07M01000]

RIN 1018–BI70

Migratory Bird Subsistence Harvest in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are revising the migratory bird subsistence harvest regulations in Alaska. Subsistence harvest regulations allow for the continuation of customary and traditional subsistence uses of migratory birds in Alaska and establish when and where the harvesting of certain migratory birds may occur within each subsistence region. Subsistence harvest regulations, including the changes set forth in this document, were developed through a cooperative process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives.

DATES: This rule takes effect on June 23, 2026.

ADDRESSES: You may inspect the comments received on the March 9, 2026, proposed rule at the Federal eRulemaking Portal: *http://www.regulations.gov* in Docket No. FWS–R7–MB–2025–1694.

FOR FURTHER INFORMATION CONTACT: Wendy Loya, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503; (907) 227–2942. 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:

Background

The Migratory Bird Treaty Act of 1918 (MBTA, 16 U.S.C. 703 *et seq.*) was enacted to protect migratory birds and gives the Secretary of the Interior (Secretary) the authority to regulate the harvest of certain migratory birds. The law further authorizes the Secretary to issue regulations to ensure that the indigenous inhabitants of the State of Alaska may take certain migratory birds and collect their eggs for nutritional and other essential needs during seasons established by the Secretary to provide for the preservation and maintenance of these migratory birds (16 U.S.C. 712(1)).

The take of migratory birds for subsistence uses in Alaska occurs primarily during the spring and summer, a timeframe not included in the fall and winter general migratory game bird hunting regulations for the United States. Regulations governing the subsistence harvest of migratory birds in Alaska are located in title 50 of the Code

of Federal Regulations (CFR) in part 92. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds and establish when and where the harvesting of certain birds in Alaska may occur within each subsistence region.

The migratory bird subsistence harvest regulations are developed cooperatively. The Alaska Migratory Bird Co-Management Council (Council or AMBCC) consists of the Service, the Alaska Department of Fish and Game (ADFG), and Alaska Native representatives. The Council's primary purpose is to develop recommendations pertaining to the subsistence harvest of migratory birds.

This rule incorporates changes to the subsistence harvest regulations that were recommended by the Council in 2025 as described below.

Comments Received on the Proposed Rule

Per the collaborative process described above, we published a proposed rule on March 9, 2026, to update the regulations for the taking of migratory birds for subsistence uses in Alaska during spring and summer (91 FR 11266). By the end of the comment period on April 8, 2026, we received six comments pertaining to the proposed rule. We made no changes to the proposed rule as a result of input we received via the public comments, however, we added further discussion to this rule regarding the regulatory revisions based on public comments we received. See Final Regulations, below, for more information.

Issue: One commenter believed that there should be no legal subsistence harvest opportunity for migratory birds in Alaska.

Response: For millennia, Indigenous peoples of Alaska have harvested migratory birds for subsistence purposes during the spring and summer months. The U.S. treaties with Canada and Mexico were amended for the express purpose of allowing subsistence harvest of migratory birds during these months. The MBTA allows for the lawful and sustainable harvest of migratory birds and their eggs per regulations.

Issue: Four commenters expressed support of the process presented in the proposed rule that was used to incorporate local input and Indigenous Knowledge in determining a meaningful region name and more appropriate harvest season dates.

Response: The Service appreciates the commenters' support for involvement of Tribal regional representatives in developing regulatory changes.

Issue: One commenter recommended the Service collect subsistence harvest data to measure the effect of the proposed regulatory change.

Response: Harvest of waterfowl and cranes by rural residents within the Upper Copper River/Ahtna Territory region represents less than 0.2 percent of the statewide harvest (Naves and Schamber 2024) and the population of the eight eligible communities in the region represents about 1.3 percent of the statewide population in eligible subsistence harvest areas (*https://live.laborstats.alaska.gov/landing/popcen.html*). In addition, there are no threatened eiders or species of conservation concern (*e.g.,* emperor geese) present in this region. These factors suggest that any increase in regional subsistence harvest due to the proposed change in season dates is unlikely to have any measurable effect on harvest or population size of migratory birds in Alaska. Past subsistence harvest surveys in Alaska have lacked the precision to detect small changes in statewide harvest and would incur an unnecessary burden on subsistence harvesters.

Issue: One commenter recommended implementation of flexible harvest closure dates based on annual environmental conditions.

Response: The use of static closure dates that approximate the primary nesting periods for their respective geographic areas may not align the timing of nesting activity with closure dates for some species in some years. However, static closure dates increase the clarity of regulations for subsistence harvesters and law enforcement and have been implemented successfully in 10 of the 12 regions, including the Upper Copper River/Ahtna Territory region. The co-management process allows a region to petition the AMBCC to change to a flexible closure date process, as two regions have already done, but the Upper Copper River/Ahtna Territory has not proposed such changes.

Issue: One commenter recommended that urban residents be restricted from the subsistence harvest of migratory birds and eggs during spring and summer.

Response: Residents of urban areas are generally restricted from harvest of migratory birds in spring and summer per regulation (50 CFR 92.5).

Issue: One commenter recommended records of all Tribal consultations be included in the final rule.

Response: To date, no requests for formal or informal Tribal consultation on the proposed rule have been requested.

Issue: One commenter recommended that sources of Indigenous Knowledge be credited under the discussion in *Revisions to Subpart D* in the final rule.

Response: The Service appreciates the commenter's suggestion to recognize the source of Indigenous Knowledge in the development of harvest regulations. The source of Indigenous Knowledge that supports the proposed change in harvest season dates was submitted in a proposal to the AMBCC in December 2025 (AMBCC Proposal No. 2026–02) and originated from members of the Copper River Migratory Bird Co-Management Council, through the Ahtna Intertribal Resource Commission. Oral testimony from the Ahtna Intertribal Resource Commission in support of the proposal was presented at the May 9, 2025, AMBCC meeting in Anchorage, Alaska.

Issue: One commenter recommended the Service ensure adaptive management strategies are in place to respond to climate-driven shifts in nesting chronology.

Response: The Service adapts its management strategies for the spring-summer subsistence harvest of migratory birds and their eggs through participation in the AMBCC. The AMBCC meets twice annually and provides an opportunity for regional Alaska Native representatives to describe observations from the communities they represent. Such observations include changes in the abundance and species of birds, harvest, climate, bird migration patterns, and nesting activity. From these observations and other supporting data, the Council can identify where regulatory proposals may be needed to change 30-day closure dates to adequately protect birds during the principal nesting period.

Issue: One commenter recommended the Service implement a 3-year evaluation period to measure the effect of the proposed change in subsistence harvest season dates on migratory bird species harvested during the spring-summer season in this region.

Response: The Service does not believe a 3-year evaluation period is necessary to assess the effect of the proposed change in subsistence harvest season dates on migratory bird populations in this region. This region has low harvest levels and few hunters, making any increase in subsistence harvest due to the proposed changes unlikely to have any population level effects (see response above to third issue for additional information). Implementation of a 3-year evaluation period would incur an unnecessary burden on subsistence hunters and cost

to the public. The Service evaluates the status of migratory birds annually throughout North America using aerial waterfowl population surveys (U.S. Fish and Wildlife Service 2025), including within the region described in the proposed action, and together with partners in the AMBCC will evaluate all available information and propose regulatory changes where warranted.

Final Regulations

We are making no changes to the regulatory revisions proposed in our March 9, 2026, proposed rule (91 FR 11266) as a result of the input we received via the public comments.

The rule sets forth the following revisions to the regulations for the taking of certain migratory birds for subsistence uses in Alaska during the spring and summer.

Revisions to Subpart A

In 50 CFR part 92, subpart A (general provisions), we change the name of the Upper Copper River region to the Ahtna Territory region in § 92.5. The Upper Copper River region is one of 12 geographic regions (called regional management areas) in Alaska based on common subsistence resource use patterns and the 12 Alaska Native regional corporation boundaries established under the Alaska Native Claims Settlement Act (ANCSA, 43 U.S.C. 1606). The Upper Copper River region has eight eligible communities whose harvest area includes Alaska State Game Management Units (GMUs) 11, 12, and 13. The Copper River Migratory Bird Co-Management Council submitted a proposal to the AMBCC requesting their region be renamed Ahtna Territory to reflect the desires of member communities to self-identify with an appropriate regional name. The current name inaccurately reflects the region's community membership and eligible harvest area, as the community of Cantwell is not located in the Copper River drainage and its traditional hunting areas are within the watersheds of other major rivers (*e.g.,* the Yukon and Susitna). Renaming this region as the Ahtna Territory will help clarify Ahtna Tribal communities included in the region and better identify those eligible to participate in the spring-summer subsistence harvest.

The AMBCC recommended an amendment to the regulations to change the name of the Upper Copper River region to the Ahtna Territory region on April 9, 2025. This regulatory amendment was supported by the Pacific Flyway Council on September 12, 2025, and the SRC on December 16, 2025, and intended for implementation beginning with the 2026 subsistence season.

Revision to Subpart B

In 50 CFR part 92, subpart B (program structure), we change the name of the Upper Copper River region to the Ahtna Territory region in § 92.11 as described above for subpart A.

Revisions to Subpart D

In 50 CFR part 92, subpart D (annual regulations governing subsistence harvest), we make several changes for the Upper Copper River region: changing the region's name, clarifying language regarding the harvest area, and modifying the season dates.

First, we change the name of the Upper Copper River region to the Ahtna Territory region in § 92.31(i) as described above for subpart A.

Second, we clarify and simplify the language in § 92.31(i) regarding which GMUs are included in the harvest area for the Upper Copper River region. Currently, § 92.31(i) states that the harvest area for the eight eligible communities—Gulkana, Chitina, Tazlina, Copper Center, Gakona, Mentasta Lake, Chistochina, and Cantwell—includes GMUs 11 and 13. However, § 92.31(i)(3) later adds GMU 12 as a harvest area for the Copper River Basin communities listed in § 92.31(i). This creates confusion, as one of the communities (Cantwell) is not located in the Copper River Basin. The current language implies that GMUs 11, 12, and 13 are open for the seven Copper River Basin communities, while Cantwell's harvest area is limited to GMUs 11 and 13. However, Cantwell is located north of the Alaska Range, which qualifies it as an ''included area'' under § 92.5(a). As such, its residents are eligible to harvest birds during the spring-summer season in areas north of the Alaska Range, like GMU 12. To clarify the regulations, we add GMU 12 to the list of GMUs in § 92.31(i) for all eight communities. We also remove § 92.31(i)(3), as it would become redundant following this change and the season date revisions described below.

Third, we modify the season dates within the Upper Copper River region listed in § 92.31(i)(1) and (i)(2). This change will simplify the regulations and better align season dates with bird presence in the region. The Upper Copper River region's harvest area includes GMUs 11, 12, and 13 as described above, but currently the hunting and egg gathering seasons for GMUs 11 and 13 are different from those in GMU 12. The Copper River Migratory Bird Co-Management Council proposed changing the season dates for GMUs 11 and 13 (currently: April 15–May 26 and June 27–August 31; closure: May 27–June 26) to match those in GMU 12 (season: April 2–June 14 and July 16–August 31; egg gathering May 1–June 14 only; closure: June 15–July 15). The change will better align the season dates in GMUs 11 and 13 with the availability of birds in the region and improve alignment of the 30-day nesting closure with the principal nesting period. The change would also simplify regulations for the region by establishing consistent season dates in all three GMUs (11, 12, and 13) and, along with the clarification described above, allows the removal of § 92.31(i)(3).

Harvest of waterfowl and cranes by rural residents within the Upper Copper River/Ahtna Territory region represents less than 0.2 percent of the statewide harvest (Naves and Schamber 2024) and the population of the eight eligible communities in the region represents about 1.3 percent of the statewide population in eligible subsistence harvest areas (*https://live.laborstats.alaska.gov/landing/pop-cen.html*). In addition, there are no threatened eiders or species of conservation concern (*e.g.,* emperor geese) present in this region. These factors suggest that any increase in harvest due to these changes is unlikely to have any population level effects. The AMBCC relied on Indigenous Knowledge from the region to substantiate the necessity of adjusting season dates.

On April 9, 2025, the AMBCC recommended an amendment to the regulations to change the season dates for GMUs 11 and 13 in the Upper Copper River region to April 2–June 14 and July 16–August 31; egg gathering May 1–June 14 only; closure: June 15–July 15 to match those in GMU 12. The word ''only'' is used after the egg gathering season dates to be consistent with the current regulations, *e.g.,* at § 92.31(h) for the Interior region. This regulatory amendment was supported by the Pacific Flyway Council on September 12, 2025, and the SRC on December 16, 2025, and intended for implementation beginning with the 2026 subsistence season.

Compliance With the MBTA and the Endangered Species Act

The Service has dual objectives and responsibilities for authorizing a subsistence harvest while protecting migratory birds and threatened species. Although these objectives are challenging, they are not irreconcilable, provided that: (1) regulations continue to protect threatened species, (2) measures to address documented threats are implemented, and (3) the

subsistence community and other conservation partners commit to working together.

Mortality, sickness, and poisoning from lead exposure have been documented in many waterfowl species, including threatened spectacled eiders (*Somateria fischeri*) and the Alaska-breeding population of Steller's eiders (*Polysticta stelleri*). While lead shot has been banned nationally for waterfowl hunting since 1991, Service staff have documented the availability of lead shot in waterfowl ammunition for sale in communities on the Yukon-Kuskokwim Delta and North Slope. The Service continues to work with partners to increase education, outreach, and enforcement efforts to ensure that subsistence waterfowl hunting is conducted using nontoxic shot.

Conservation Under the MBTA

Based on long-term monitoring of harvest and population size of the migratory bird species taken for subsistence, we find that this final rule will provide for the preservation and maintenance of migratory birds as required by the MBTA. Communication and coordination with the AMBCC and the Pacific Flyway Council have aided in the establishment of hunting regulations to ensure the long-term viability of the migratory birds exposed to harvest.

Endangered Species Act Consideration

Spectacled eiders and the Alaska-breeding population of Steller's eiders are listed as threatened species under the Endangered Species Act of 1973, as amended (ESA, 16 U.S.C. 1531 *et seq.*). Their migration and breeding distribution overlap with areas where the spring and summer subsistence migratory bird harvest is open in Alaska. However, neither eider species is present in the Upper Copper River region where this final rule applies. In addition, both species are closed to subsistence harvest and under §§ 92.21 and 92.32 the Service may implement emergency closures, if necessary, to protect Steller's eiders or any other endangered or threatened species or migratory bird population.

Section 7 of the ESA requires the Secretary to review other programs administered by the Department of the Interior and utilize such programs in furtherance of the purposes of the ESA. The Secretary is further required to ensure that any action authorized, funded, or carried out by the Department of the Interior is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat.

The Service's Alaska Region Migratory Bird Management Program conducted an intra-agency consultation with the Service's Northern Alaska Fish and Wildlife Field Office on the proposed rule (91 FR 11266; March 9, 2026). Given the absence of listed eiders in the action area, a no effect determination was made. Therefore, the Service will not need to issue a letter of concurrence or biological opinion, and we have determined that this rule complies with the ESA.

Immediate Effective Date

This rule takes effect on the date set forth above in **DATES**. To respect the subsistence hunt of many rural Alaskans, either for their cultural or religious exercise, for providing sustenance, or for acquiring materials for cultural use (*e.g.,* handicrafts), the Department of the Interior finds that it is in the public interest to make this rule effective as soon as possible. Delaying the effective date for 30 days would have detrimental effects on Alaskans seeking to conduct subsistence harvest of migratory birds. Within the terms of 5 U.S.C. 553(d)(1) of the Administrative Procedure Act (APA), the regulations in 50 CFR part 92 recognize a statutory exemption provided to rural Alaskans for the subsistence harvest of migratory birds. For these reasons, under the authority of the APA and the MBTA, this rule takes effect immediately upon publication in the **Federal Register**.

Required Determinations

Regulatory Planning and Review (Executive Orders (E.O.s) 12866 and 13563)

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed these revisions to the CFR in a manner consistent with these requirements.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A regulatory flexibility analysis is not required.

Accordingly, a small entity compliance guide is not required. The regulations at 50 CFR part 92 legalize a preexisting subsistence activity. The commodities that are regulated under these regulations are migratory birds, and the resources harvested are consumed. This final rule makes only modest changes to the current regulations.

Congressional Review Act

This final rule is not a major rule under 5 U.S.C. 804(2), the Congressional Review Act. This final rule:

(a) Would not have an annual effect on the economy of $100 million or more. The regulations at 50 CFR part 92 legalize the subsistence harvest of migratory birds and, as such, do not involve commodities traded in the marketplace. This final rule would not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns.

(b) Would not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This final rule does not deal with traded commodities and, therefore, would not have an impact on prices for consumers.

(c) Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This final rule deals with the harvesting of wildlife for personal consumption. It would not regulate the marketplace in any way to generate substantial effects on the economy or the ability of businesses to compete.

Unfunded Mandates Reform Act

We have determined and certified under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) that this final rule would not impose a cost of $100 million or more in any given year on local, State, or Tribal governments or private entities. The final rule would not have a significant or unique effect on local, State, or Tribal governments or the private sector. A statement

containing the information required by the Unfunded Mandates Reform Act is not required. Participation on regional management bodies and the Council requires travel expenses for some Alaska Native organizations and local governments. In addition, they assume some expenses related to coordinating involvement of village councils in the regulatory process. Total coordination and travel expenses for all Alaska Native organizations are estimated to be less than $300,000 per year. When funding permits, the Service makes annual grant agreements available to the partner organizations and the ADFG to help offset their expenses. However, this final rule would not revise any regulations pertaining to participation in the regulatory process.

Takings (E.O. 12630)

Under the criteria in E.O. 12630, this final rule would not have significant takings implications. The changes to the regulations at 50 CFR part 92 are not specific to particular landownership but instead apply to the harvesting of migratory bird resources in portions of Alaska. A takings implication assessment is not required.

Federalism (E.O. 13132)

In accordance with E.O. 13132 (Federalism), this final rule does not have significant federalism implications to warrant the preparation of a federalism summary impact statement. The Service worked with the State of Alaska to develop these regulations. Therefore, a federalism summary impact statement is not required.

Civil Justice Reform (E.O. 12988)

The Department, in promulgating this final rule, has determined that it would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Government-to-Government Relations With Native American Tribal Governments

In accordance with E.O. 13175 (''Consultation and Coordination with Indian Tribal Governments''), and the Department of the Interior's manual chapters at 512 DM 2, 512 DM 4, and 512 DM 6, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes and Alaska Native Corporations on a government-to-government basis. We sent letters via electronic mail to all 229 federally recognized Indian Tribes in Alaska. Consistent with 512 DM 5 and 512 DM 7, we also sent letters to approximately 200 Alaska Native Corporations and other Tribal entities in Alaska soliciting their input as to whether or not they would like the Service to consult with them on the proposed changes to the migratory bird subsistence harvest regulations.

We implemented the amended treaty with Canada with a focus on local involvement. The treaty calls for the creation of management bodies to ensure an effective and meaningful role for Alaska's indigenous inhabitants in the conservation of migratory birds. According to the Letter of Submittal, management bodies are to include Alaska Native, Federal, and State of Alaska representatives as equals. They develop recommendations for, among other things: seasons and bag limits, methods and means of take, law enforcement policies, population and harvest monitoring, educational programs, research and use of traditional knowledge, and habitat protection. The management bodies involve village councils to the maximum extent possible in all aspects of management. To ensure maximum input at the village level, we required each of the 11 participating regions to create regional management bodies consisting of at least one representative from the participating villages. The regional management bodies meet up to twice annually to review and/or submit proposals to the statewide body.

Paperwork Reduction Act of 1995 (PRA)

This final rule does not contain any new collection of information that requires approval by the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has previously approved the information collection requirements associated with subsistence harvest reporting and assigned the following OMB control numbers:

- Alaska Migratory Bird Subsistence Harvest Household Survey, OMB Control Number 1018–0124 (expires July 31, 2027), and
- Regulations for the Taking of Migratory Birds for Subsistence Uses in Alaska, 50 CFR part 92, OMB Control Number 1018–0178 (expires July 31, 2027).

National Environmental Policy Act Consideration (42 U.S.C. 4321 et seq.)

The regulations at 50 CFR part 92 and options are considered in the Finding of No Significant Impact, ''Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2026 Spring/Summer Season.'' Copies are available online at: *https://www.fws.gov/media/usfws-finding-no-significant-impact-2026.*

Energy Supply, Distribution, or Use (E.O. 13211)

E.O. 13211 requires agencies to prepare statements of energy effects when undertaking certain actions. This final rule is not a significant regulatory action under this E.O.; it allows only for traditional subsistence harvest and improves conservation of migratory birds by allowing effective regulation of this harvest. This final rule would not have any effect on energy supplies, distribution, or use. Therefore, this action is not a significant energy action under Executive Order 13211, and a statement of energy effects is not required.

References Cited

Naves, Liliana C. and Jason L. Schamber. 2024. Harvest of waterfowl and Sandhill Crane in rural Alaska: Geographic and seasonal patterns. PLoS ONE 19(7): e0307135.

U.S. Fish and Wildlife Service. 2025. Waterfowl population status, 2025. U.S. Department of the Interior, Washington, DC USA.

List of Subjects in 50 CFR Part 92

Hunting, Treaties, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the U.S. Fish and Wildlife Service amends 50 CFR part 92 as set forth below:

PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA

■ 1. The authority citation for part 92 continues to read as follows:

Authority: 16 U.S.C. 703–712.

§ 92.5 [Amended]

■ 2. In § 92.5 amend paragraphs (a)(2)(i) and (d)(2) by removing the words ''Upper Copper River Region'' and adding in their place the words ''Ahtna Territory Region''.

§ 92.11 [Amended]

■ 3. In § 92.11 amend paragraph (a)(11) by removing the words ''Upper Copper River'' and adding in their place the words ''Ahtna Territory''.

■ 4. Amend § 92.31 by revising paragraph (i) to read as follows:

§ 92.31 Region-specific regulations.

* * * * *

(i) *Ahtna Territory region* (Harvest Area: Game Management Units 11, 12, and 13) (Eligible communities: Gulkana, Chitina, Tazlina, Copper Center,

Gakona, Mentasta Lake, Chistochina and Cantwell).

(1) Season: April 2–June 14 and July 16–August 31; egg gathering May 1–June 14 only.

(2) Closure: June 15–July 15.

* * * * *

Kevin Lilly,

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

[FR Doc. 2026–12576 Filed 6–22–26; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 260615–0144]

RIN 0648–BN95

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Cordell Bank Groundfish Conservation Area Revisions

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

ACTION: Final rule.

SUMMARY: NMFS is issuing final regulations to remove the Cordell Bank Groundfish Conservation Area off central California for all groundfish fisheries and implement a new Groundfish Exclusion Area for all groundfish fisheries to protect sensitive habitat. The purpose of this action is to simplify regulatory complexity associated with overlapping fishery closures in the Cordell Bank area, and to increase fishing opportunities while still protecting the Cordell Bank ecosystem.

DATES: Effective June 23, 2026.

ADDRESSES: Information relevant to this action, including the integrated analysis that addresses the National Environmental Policy Act (NEPA), Presidential Executive Order 12866, the Regulatory Flexibility Act, and the statutory requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act or MSA) (collectively referred to as ''the Analysis''), may be obtained from the NMFS West Coast Region Groundfish website at: *https://www.fisheries.noaa.gov/action/cordell-bank-area-revisions.*

FOR FURTHER INFORMATION CONTACT: Lynn Massey, phone: 562–900–2060, or email: *Lynn.Massey@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Pacific Coast groundfish fishery in the U.S. exclusive economic zone (EEZ) seaward of Washington, Oregon, and California is managed under the Pacific Coast Groundfish Fishery Management Plan (hereafter, Groundfish FMP). The Pacific Fishery Management Council (Council) developed the Groundfish FMP pursuant to the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* The Secretary of Commerce approved the Groundfish FMP and implemented the provisions of the plan at 50 CFR part 660, subparts C through G. Species managed under the Groundfish FMP include roundfish, flatfish, rockfish, sharks, and skates.

This final rule (also referred to as the ''action'') includes regulations that remove the Cordell Bank Groundfish Conservation Area (GCA) off central California for all groundfish fisheries and implement a new Groundfish Exclusion Area (GEA) for all groundfish fisheries to protect sensitive habitat. GEAs are authorized as an area closure type under section 6.8.10 of the Groundfish FMP; therefore no further changes to the Groundfish FMP are necessary to designate a new GEA.

For information on the development of this action, refer to the ''Background'' section of the proposed rule (91 FR 4485; February 2, 2026).

Removal of the Cordell Bank GCA

This final rule removes the Cordell Bank GCA closure from the Federal regulations at § 660.70, as well as the associated groundfish prohibitions for the trawl, limited entry fixed gear, open access, and recreational fishery sectors specified at §§ 660.130, 660.230, 660.330, and 660.360, respectively. Although the former GCA was 64 square miles (sq mi) (165.8 square kilometers (sq km)), only 40.1 sq mi (104 sq km) is being opened, including 10.2 sq mi (26.4 sq km) to almost all trawl gear and the full 40.1 sq mi (104 sq km) to non-trawl gear. The former GCA overlapped with two other closures: (1) the Cordell Bank Biogenic Essential Fish Habitat Conservation Area (EFHCA), which prohibits fishing with bottom trawl gear (except for demersal seine) by all fisheries (hereafter referred to as the ''bottom trawl EFHCA''); and (2) the Cordell Bank (50-fm isobath) EFHCA, which prohibits fishing with bottom contact gear by all fisheries (hereafter referred to as the ''bottom contact EFHCA''). The former GCA bordered a third closure at the 100 fathom (fm) line—the Non-Trawl Rockfish Conservation Area (Non-Trawl RCA), which prohibits commercial groundfish fishing with most types of non-trawl gear. These closures can be viewed on figure 1 of the Analysis (see **ADDRESSES**). These three closures and their associated prohibitions remain in place, and a GEA now overlays the exact geographic footprint of the bottom contact EFHCA (see next section).

The coordinates for the former Cordell Bank GCA include coordinates commonly referred to as the ''100-fm ring.'' These coordinates are distinct from the 100 fm (183 meter (m)) depth contour line defined at § 660.73. Per the trawl management measure regulations at § 660.130(c)(1)(ii), trawling with large footrope gear is prohibited in the area south of 46°16′ North latitude (N lat.) and shoreward of 100 fm (183 m). Removing the Cordell Bank GCA coordinates from Federal regulations entirely would default to allow trawling with large footrope gear in the 10.2 sq mi (26.4 sq km) opened to trawl gear. In order to maintain this prohibition, the coordinates for the 100 fm ring have been transferred to § 660.73, which is where the coordinates for the coastwide 100 fm (183 m) line and other lines around islands and banks are defined.

Creation of the Cordell Bank GEA

GEAs were first created by and used via Amendment 32 (88 FR 83830, December 1, 2023), which implemented eight GEAs in the Southern California Bight to protect sensitive coral ecosystems from groundfish fishing impacts when the Cowcod Conservation Areas were removed for non-trawl commercial and recreational groundfish fisheries. The Groundfish FMP authorizes the creation of additional GEAs via rulemaking (see section 6.8.10). GEAs are a different type of closure from GCAs in that their primary purpose is not to protect groundfish species, but to protect habitat. GEAs are different from EFHCAs in that GEAs do not necessarily protect groundfish-specific essential fish habitat (EFH). Rather, a GEA may be established to protect other types of oceanic and seafloor habitats.

As described in the prior section, there are currently a number of overlapping or bordering fishery closures in the Cordell Bank area, including the bottom contact and bottom trawl EFHCAs, and the Non-Trawl RCA. Each closure has different regulations that prohibit different fisheries from operating and different gear types from being used (see table 1 of the Analysis), consequently creating confusion among fishermen and challenges for enforcement officers. The

purpose of this action is to reduce regulatory complexity and increase fishing opportunities, while protecting the Cordell Bank ecosystem. Amendment 19 to the Groundfish FMP designated the Cordell Bank as a habitat area of particular concern (HAPC) in 2006, because it contains a substantive amount of rocky reef habitat. The Cordell Bank GCA was initially implemented in 2004, to reduce catch of several overfished groundfish stocks, which are all now rebuilt. Therefore, although there is no longer a need for the Cordell Bank GCA to protect overfished groundfish species, there remains a need to protect sensitive habitat in the area (see next section).

This final rule establishes the Cordell Bank GEA at § 660.70. All groundfish fishing is prohibited within the Cordell Bank GEA. Groundfish vessels are allowed to continuously transit through the Cordell Bank GEA as long as all groundfish gear is stowed. The Cordell Bank GEA is 26.4 sq mi (68.4 sq km), of which 23.9 sq mi (61.9 sq km) is inside the former Cordell Bank GCA and the remaining 2.5 sq mi (6.5 sq km) is outside of the former GCA. The 2.5 sq mi (6.5 sq km) that is outside of the former GCA overlaps with the bottom contact EFHCA and Non-Trawl RCA, meaning groundfish fishing with non-bottom contact gear (*e.g.,* troll gear) used to be allowed in this area. The new GEA now prohibits all groundfish fishing, thereby taking away the ability to use non-bottom contact gear in this 2.5 sq mi (6.5 sq km). With the addition of the GEA, approximately 37 percent of the former Cordell Bank GCA footprint remains closed to all groundfish fishing, and most of the remaining area still has restrictions in place from the bottom contact and bottom trawl EFHCAs. Only 10.2 sq mi (26.4 sq km) or 16 percent of the former GCA is now open to trawl gear, as there are no other overlapping closures in this area. Overall, this final action opens a net area of 40.1 sq mi (103.9 sq km). Of this area, 10.2 sq mi (26.4 sq km) is open to trawl gear and the full 40.1 sq mi (103.9 sq km) is open to non-trawl commercial and recreational gear. The Cordell Bank GEA coordinates are the same as the coordinates for the existing bottom contact EFHCA (listed at § 660.79(r)), which is expected to substantively reduce regulatory complexity and enforcement challenges in the area.

This final rule also revises the regulations at § 660.10 to remove the definition of GEA from the list of defined GCAs and categorize it as its own type of conservation area. This change better reflects the regulatory purpose of GEAs, which is to protect sensitive habitats from groundfish fishing as opposed to overfished groundfish species from groundfish fishing. The definition of ''Continuous transiting or transiting through'' has been accordingly revised to no longer specify that continuous transit is allowed in a GCA or EFCHA, but rather, all defined conservations areas, which includes GCAs, EFHCAs, and GEAs.

Summary of Habitat Impacts

Known for its extensive rocky reef habitat, the Cordell Bank area is designated as groundfish EFH and a HAPC via Amendment 19 to the Pacific Coast Groundfish FMP (71 FR 27408, May 11, 2006). It is also located within the Cordell Bank National Marine Sanctuary (NMS). The Analysis for this action (see **ADDRESSES**) discloses potential impacts to habitat that may result from the opening of the Cordell Bank GCA. Specifically, the Analysis includes maps of varying benthic substrates (*e.g.,* sandy bottom vs. hard substrate) as well as corals, sponges, and sea pens that occur in the areas opened to groundfish trawl and non-trawl gear types. The Analysis also discusses potential shifts in fishery effort by each relevant fishery sector.

Trawl Gear Impacts

Under this action, approximately 10.2 sq mi (26.4 sq km) of new area will be exposed to trawl gear. As described in the Analysis, available data show that approximately 3.3 percent (0.54 sq mi or 1.4 sq km) of that area is rocky reef habitat, with limited coral, sponge, and sea pen observations. The remaining area is primarily made up of sand substrate with some unconsolidated mineral substrate. The Analysis also explains that significant fishing effort with trawl gear is not anticipated in the newly opened area, as the area is only 10.2 sq mi (26.4 sq km), and there has been limited to no trawl effort in the vicinity of the Cordell Bank GCA since 2018. Bottom trawl vessels typically avoid high relief rocky habitat to avoid gear damage; therefore, even if trawl vessels came to the newly opened area, they would likely fish over the areas with a flatter bottom. Additionally, trawl regulations at § 660.130(c)(1)(ii) prohibit the use of large footrope gear in the area south of 46°16′ N lat. and shoreward of the 100-fm (183-m) depth contour; therefore, only small footrope gear (generally considered to be less damaging than large footrope gear) would be permitted in the 10.2 sq mi (26.4 sq km) area opened. As the name implies, small footrope gear—in contrast to large footrope gear—has smaller diameter footrope, including rollers, bobbins, and other material, which is designed for lower relief seafloor types and may reduce seafloor impact and bycatch. Overall, the Analysis concludes that a minimal amount of rocky reef habitat will be exposed to trawl gear, and minimal impact from fishing is expected to occur if trawl effort shifts into that area. For a more detailed analysis on potential habitat impacts from trawl gear, see section 3.1.2 the Analysis.

Non-Trawl Gear Impacts

Under the action, approximately 40.1 sq mi (103.9 sq km) of new area will be exposed to non-trawl gear (*e.g.,* pots, bottom longline, hook-and-line), which is generally considered to be less impactful than trawl gear (see appendix C to the Pacific Coast Groundfish FMP). As described in the Analysis, available data shows that approximately 8.9 percent (3.6 sq mi or 9.3 sq km) of the 40.1 sq mi (103.9 sq km) newly opened area is rocky substrate with an additional 43.2 percent (17.3 sq mi or 44.8 sq km) categorized as unconsolidated mineral substrate. The remaining half of the newly opened area is categorized as sand. Additionally, there are limited coral, sponge, and sea pen observations in the area.

The Analysis also predicts some effort shift into the 40.1 sq mi (103.9 sq km) newly opened area from the non-trawl catch share sector fisheries, as effort data since 2021 indicates those vessels have been fishing in the vicinity of the Cordell Bank GCA. However, these vessels would likely use hook-and-line gear, which is generally considered to be less impactful on benthic habitat than non-trawl gear types that are actively fished on the bottom (*e.g.,* pot or longline). In their November 2024 statement (see Agenda Item I.5.a, Supplemental GAP Report 1 at *https://pcouncil.org*), the Council's Groundfish Advisory Subpanel discussed that limited pot gear activity is likely to occur in the area due to the high relief habitat features and the fact that the area is too shallow for sablefish (the primary target species for pot gear). Hook-and-line gear for midwater stocks will likely be the targeted fishery occurring in the action area.

Effort shift from the recreational sector is also anticipated, as the Cordell Bank area has historically been a recreational fishing ground, and public comments from the November 2024 Council meeting (see *https://pcouncil.org*) and on the proposed rule indicate interest in adding the Cordell Bank area to a rotation of recreational fishing locations to spread out effort on other nearby fishing locations. Overall,

the Analysis anticipates some, but not significant, potential impact in the newly opened area from non-trawl gear due to anticipated effort shift from the commercial and recreational non-trawl sectors. For a more detailed analysis on potential habitat impacts from non-trawl gear, see section 3.1.2 the Analysis.

In addition to opening the 40.1 sq mi (103.9 sq km) of area discussed above, NMFS is closing approximately 2.5 sq mi (6.5 sq km) in the Cordell Bank area that is currently open to non-trawl non-bottom contact gear. This 2.5 sq mi (6.5 sq km) area is currently within the bottom contact EFHCA, and therefore, non-bottom contact gears are permitted. However, the proposed GEA would close this small 2.5 sq mi (6.5 sq km) area to all groundfish fishing.

Essential Fish Habitat

The Magnuson-Stevens Act and its implementing regulations require that FMPs describe and identify EFH and minimize to the extent practicable adverse effects on EFH caused by fishing. As such, EFH along the U.S. West Coast is described in appendices B and C to the Pacific Coast Groundfish FMP and includes the Cordell Bank area. The Pacific Coast Groundfish FMP authorizes the use of EFHCAs to protect groundfish EFH from specific types of fishing activity. As a result of the Council's 2006 EFH review process, a bottom trawl EFHCA and a bottom contact EFHCA were implemented in the Cordell Bank area via Amendment 19 to the Pacific Coast Groundfish FMP (71 FR 27408, May 11, 2006). The coordinates for these EFHCAs are listed at § 660.79(q) and (r), respectively. As a result of the 2014–2020 EFH process, which included review of the Cordell Bank area, the bottom trawl EFHCA was later expanded via Amendment 28 (84 FR 63966, November 19, 2019). The bottom contact EFHCA was not changed at that time because there was not new, definitive information on the benthic habitat effects of non-trawl bottom contact gear that compelled revisions. During the development of this action, the Council and its Habitat Committee reviewed new information on the potential impact to EFH in the Cordell Bank area from opening the newly opened areas to both trawl and non-trawl fishing. This evaluation is documented in the Analysis (see section 3.1.2). Overall, the Analysis concludes that there will not be new significant impacts to EFH from this action that would require additional mitigative measures.

Conclusion

As described in the Analysis, significant habitat impact from this action (including to designated EFH) is not anticipated. Although there is some expected effort shift from the commercial and recreational non-trawl sectors, the primary gear type used would be hook-and-line, as fishermen tend to avoid high relief rocky habitat with bottom gear to avoid gear damage. Additionally, the newly opened area is too shallow for sablefish, which is the primary target for non-trawl bottom gear types. The vast majority of coral, sponge, and sea pen observations occur within the new GEA and, therefore, will remain protected from groundfish fishing impacts.

Public Comments

The 30-day public comment period on the proposed rule (91 FR 4485) occurred from February 2, 2026, through March 4, 2026. NMFS received 80 comments supporting the proposed rule, 47 comments opposing the proposed rule, and five neutral comments that either indicated a mix of support and opposition, or provided general commentary with no clear stance on the proposed rule. No changes were made to the proposed rule in response to public comments.

The majority of the supportive comments were from industry stakeholders, including fishing association representatives and individual fishermen. These comments generally expressed enthusiasm for gaining back access to historical fishing grounds and the positive socio-economic effects that are anticipated to result for California coastal communities. Several of the comments also expressed support for the ability to use the newly opened area as a rotational fishing location for recreational fisheries, which is expected to take partial pressure off other nearby recreational fishing locations, including Rittenburg Bank.

NMFS received 47 comments opposing the proposed rule. The majority of these comments expressed concern over potential adverse environmental impacts from opening the 10.2 sq mi (26.4 sq. km) portion of the former GCA to bottom trawl gear. Four of the comments, which were all from environmental nongovernmental organizations (NGOs), included this issue, as well as other concerns. NMFS responds to these four comments below. NMFS' response to these four comments also addresses the general concerns about bottom trawl gear expressed in the other comments.

The environmental NGOs, which include Oceana, Turtle Island Restoration Network (TIRN), Fish On, and Earth Island Institute submitted letters that, in summary, claim the proposed rule is inconsistent with the mandates of the MSA in regard to EFH protection and with NMFS' obligations related to National Marine Sanctuary protections. Oceana and TIRN brought forward six primary claims, which are responded to in Comments 1 through 6 below. The responses to Comments 1 through 5 address the claims in the Fish On letter. The response to Comment 5 addresses the claim made in the Earth Island Institute letter.

Comment 1: Oceana, TIRN, and Fish On commented that the proposed rule should have been evaluated alongside the Council's routine groundfish EFH review process, and that proceeding with opening portions of the Cordell Bank area to fishing before this process undermines EFH protections. Additionally, Oceana comments that evaluating this action outside of a formal EFH review process precludes a coherent, science-based evaluation of cumulative and long-term impacts.

Response 1: The MSA and its implementing regulations require that FMPs describe and identify EFH and minimize, to the extent practicable, adverse effects on EFH caused by fishing (16 U.S.C. 1853(a)(7); 50 CFR 600.815(a)(2)(i)–(ii)). There is no requirement in the MSA or its implementing regulations to conduct an updated EFH review prior to implementing a fishery action. However, because amendments to the FMP or its implementing regulations must ensure that the FMP continues to minimize, to the extent practicable, adverse effects on EFH caused by fishing (50 CFR 600.815(a)(2)(ii)), it is appropriate to identify and evaluate new information relevant to EFH prior to implementing a fishery action. The development of this action included a thorough review of the best scientific information available (BSIA) on habitat and benthic substrate in the action area, including new information available since the last Pacific Coast groundfish review, which occurred from 2014–2020. The Council's Habitat Committee vetted that scientific information, alongside information on fishing gear impacts to benthic habitats that is provided in the Fishing Gear Effects on Marine Habitats Database. This rule therefore complies with the MSA and its implementing regulations. The Analysis prepared for the rule is based on the most up-to-date scientific information available (see additional explanation under the Response 4 below) and

discloses and evaluates potential impacts from fishing to groundfish EFH in the Cordell Bank area. Additionally, the Groundfish FMP (which is incorporated by reference in the Analysis) describes groundfish EFH, including fishing impacts, in appendices B and C.

Comment 2: Oceana, TIRN, and Fish On commented that opening up the 10.2 sq mi (26.4 sq km) area to bottom trawling is inconsistent with the Council's and NMFS' precautionary approach of ''freezing the footprint'' of bottom trawling unless and until there is area-specific data indicating the absence of sensitive habitats.

Response 2: Neither the Council nor NMFS has codified a policy of ''freezing the footprint'' of bottom trawling off the U.S. West Coast as contended in the comment letters. As part of Amendment 19 to the Groundfish FMP, the Council and NMFS established the Seaward of 700 fm (1,280 m) contour closure, which was intended to preemptively close waters beyond the depths where bottom trawling has historically occurred. This closure is intended to prevent the expansion of bottom trawling into areas where groundfish EFH has not historically been adversely affected by bottom trawling. The closure is listed in Section 6.8.7 of the Groundfish FMP and is described as the ''bottom trawl footprint closure''. This closure appears to be what commenters refer to as ''freezing the footprint'' of bottom trawling; however, Amendment 19 instituted a depth closure as opposed to a policy generally freezing the footprint of bottom trawling. Additionally, as part of Amendment 28 to the Groundfish FMP, the Council and NMFS established the Deep-Water Ecosystem Conservation Area (DECA) closure (>3,500 m), which was intended to close waters deeper than designated groundfish EFH to protect deep sea corals from exploratory fishing, and may have been mistakenly referred to as a ''footprint closure''. This action does not modify either of these depth closures. In summary, the Council and NMFS do not have a specific policy or requirement to freeze the footprint of bottom trawling on the West Coast, as described by the NGOs. Rather, when considering the exposure of seafloor habitat to bottom trawling, the Council and NMFS adhere to the mandates of the MSA, with regard to EFH protections and BSIA, on an action-by-action basis. As such, bottom trawling is prohibited in the expansive coastwide network of existing bottom trawl EFHCAs, which includes 152,355 sq mi (394,598 sq km) of area that has been reviewed through the Council's EFH process and specifically designated as in need of protection from bottom trawling. The existing bottom trawl EFHCA in the Cordell Bank area covers all but 10.2 sq mi (26.4 sq km) of the former Cordell Bank GCA footprint. This EFHCA was reviewed during the 2014 EFH review process and appropriately expanded via Amendment 28 to the Groundfish FMP (84 FR 63966, November 19, 2019). When considering this action, the Council used the most updated information available on habitat in the Cordell Bank area to evaluate potential EFH impacts, and this information indicates that the small area newly opened to bottom trawling is predominantly sandy bottom (see Sections 3.1.1 and 3.1.2 of the Analysis). Accordingly, this action is consistent with the MSA, implementing regulations, and Council and NMFS policies. If new information is presented at the next EFH review that warrants further expansion of the bottom trawl EFHCA in the Cordell Bank area, or other West Coast EFHCAs, then the Council may recommend that approach to NMFS at that time.

Comment 3: Three NGOs, including Oceana, Turtle Island Restoration Network, and Fish On, claimed that NMFS violated NEPA's requirement to evaluate a reasonable range of alternatives. Specifically, Oceana comments that NMFS' range of alternatives was insufficient because it lacked an alternative that maintained prohibitions on all bottom contacting fishing gear. Similarly, TIRN comments that NMFS did not meaningfully evaluate an alternative that would keep all existing bottom-trawl closures in place and limit the reopening to non-trawl gear; or an alternative with different boundaries for the new GEA that would avoid more sensitive habitats or that would delay reopening until additional habitat mapping is completed.

Response 3: NEPA requires Federal agencies to take a hard look at the environmental consequences of their actions. To meet its NEPA obligations for this action, NMFS completed an Environmental Assessment (EA). NEPA does not specify a minimum requirement for the number of alternatives to be evaluated; NEPA requires that the range simply be reasonable (42 U.S.C. 4331(2)(H)). NOAA's Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities define reasonable alternatives as those that are technically and economically feasible and meet the purpose and need of the proposed action. An EA may include only the preferred and no action alternatives (Companion Manual for NOAA Administrative Order 216–6A, Section XIV (U)). This guidance is supported by Federal case law. See, *e.g., Earth Island Institute* v. *U.S. Forest Service,* 87 F.4th 1054 (9th Cir. 2023) (an agency satisfies NEPA when it considers only two alternatives); *City of Los Angeles* v. *Federal Aviation Administration,* 63 F.4th 835 (9th Cir. 2023) (a court determines whether an agency considered a reasonable range of alternatives based on its purpose and need). The stated purpose and need for this action is: *The purpose of this action is to provide fishing access to previously closed areas surrounding Cordell Bank while protecting sensitive habitats. The Cordell Bank GCA was initially implemented to reduce catch of several overfished groundfish stocks, which are all now rebuilt or rebuilding ahead of schedule. This action is needed to remove unnecessary regulations and to reduce regulatory complexity.* The EA for this action evaluated two alternatives: keeping the prior Cordell Bank GCA regulations in place (No Action), or removing the Cordell Bank GCA and replacing it with a new GEA over the Cordell Bank bottom contact EFHCA that would be applicable to all groundfish fisheries (the Preferred Alternative). No additional alternatives were necessary to complete a reasonable range. As stated in the purpose and need, the primary groundfish stocks of concern that motivated the implementation of the GCA are now rebuilt. Thus, the Cordell Bank GCA met its purpose and is no longer necessary for the management of overfished stocks. The action alternative meets the need of reducing regulatory complexity in the Cordell Bank area, and the EA evaluated potential impacts resulting from the action on sensitive habitat, including EFH. Accordingly, the two alternatives evaluated were sufficient under NEPA; particularly in this case where NMFS determined in its EA that the action would not have a significant impact on the environment.

Comment 4: Fourth, Oceana, TIRN, and Fish On commented that NMFS violated the MSA's National Standard 2 (*i.e.,* the requirement that fishery conservation and management measures be based on BSIA) because NMFS did not adequately consider recent data from the Office of National Marine Sanctuaries documenting extensive hard and mixed substrates, as well as coral and sponge communities, on and around Cordell Bank.

Response 4: The Analysis for this action used and evaluated the BSIA on habitat and benthic substrate. The data specifically referenced by Oceana and

TIRN was not publicly available during the development of the Analysis, nor had it been peer-reviewed. However, once aware of the new data, the Council and NMFS coordinated with the Office of National Marine Sanctuaries to incorporate the information into the Analysis. All new data from the Office of National Marine Sanctuaries, which includes predictive habitat classification and additional coral and sea sponge observations, is displayed in the Analysis in Figures 8 through 13. This information was considered by the Council prior to making their final recommendation to NMFS. As stated in the Analysis (see Section 3.2.1), and as supported by the BSIA, the majority of hard substrate and coral and sponge observations in the Cordell Bank area will remain inside the new Cordell Bank GEA.

Comment 5: Oceana, TIRN, Fish On, and Earth Island Institute either specifically or generally commented that NMFS failed to follow the directive and mandates of the National Marine Sanctuaries Act (NMSA) to protect sanctuary resources and the Cordell Bank NMS designation because the rule reopens areas to bottom contact fishing in Cordell Bank and because the rule reopens these areas without adequate safeguards in place. Relatedly, Oceana and TIRN also claim that NMFS lacks a monitoring framework sufficient to detect and assess impacts to benthic habitats, EFH, or protected species.

Response 5: NMFS finds that the fishing area being opened has adequate safeguards in place to minimize, to the extent practicable, the effects of fishing on EFH and protect sanctuary resources consistent with both the MSA and the NMSA. The NMSA provides the authority for the Secretary of Commerce to designate a discrete area of the marine environment as a national marine sanctuary and to promulgate regulations implementing such designation, if the area is determined to be of special national significance due to (1) its conservation, recreational, ecological, historical, scientific, cultural, archaeological, educational, or esthetic qualities; (2) the communities of living marine resources it harbors; or (3) its resource or human-use values (16 U.S.C. 1433(a)). The Cordell Bank NMS was designated in 1989 to protect an approximately 400 sq mi (1,036 sq km) area consisting of a nutrient-rich, offshore rocky bank off the coast of California. The designation explained that, ''Cordell Bank and its surrounding waters, because of a rare combination of oceanic conditions and undersea topography, provide a highly productive marine environment in a discrete, well defined area'' (54 FR 22417, May 24, 1989). Under the NMSA, the terms of a sanctuary designation include the types of activities that will be subject to regulation by the Secretary to protect a specific sanctuary's characteristics (16 U.S.C. 1433(a)). The Cordell Bank NMS designation specifically authorizes the regulation of five types of activities within the sanctuary, not including fishing (54 FR 22417, May 24, 1989). With respect to fishing, the designation ''reaffirms that no regulation of fishing, other than by existing State and Federal statutes, will occur'' and that ''[a]ll State and Federal regulatory programs pertaining to fishing, including Fishery Management Plans promulgated under the Magnuson Fishery Conservation and Management Act, remain in effect''. Stated differently, the Cordell Bank NMS designation provides that fishing within the area will continue to be regulated through Council and NMFS action, consistent with this rulemaking. Of the 64 sq mi (165.8 sq km) footprint of the former Cordell Bank GCA, all but 10.2 sq mi (26.4 sq km) will remain inside of a protective closure—either an EFHCA, the new GEA, or both. For the fishing activity that does take place in the newly opened area, participating vessels will remain subject to their sector's respective management measures, including but not limited to carrying a vessel monitoring system that tracks fishing location (commercial trawl and non-trawl sectors), species-specific catch limits/bag limits/quotas (all sectors), gear limitations (varies across all sectors; *e.g.,* maximum hook requirements in the recreational sector), logbook reporting (commercial trawl and non-trawl sectors), seasonal depth restrictions (recreational sector), partial observer coverage (non-trawl commercial sector), 100 percent observer coverage or electronic monitoring (trawl sector), and the requirement to carry and use a descending device when returning discarded fish to depth (recreational sector). Even in the 10.2 sq mi (26.4 sq km) that is now open to all bottom contact gear, NMFS is adjusting the regulations such that the prohibition on using large footrope trawl gear shallower than 100 fm (183 m) is maintained to mitigate seafloor damage (see Removal of the Cordell Bank GCA above and in the same section of the proposed rule). NMFS finds these protections and required monitoring measures in the newly opened areas, including within the limited area newly opened to bottom trawl, to be adequate to detect and assess impacts to benthic habitats, EFH, or protected species within the sanctuary, and thus to protect sanctuary resources and minimize to the extent practicable, the effects of fishing on EFH.

Comment 6: Last, Oceana and TIRN comment that the removal of spatial protections under the Cordell Bank GCA is particularly concerning when considered together with other recent actions recommended by the Council, including the removal or reclassification of select stocks in the Groundfish FMP. The NGOs argue that cumulatively the actions diminish safeguards for ecologically important habitats and sensitive species.

Response 6: NMFS disagrees with this comment. The removal of stocks from, or reclassification of stocks as Ecosystem Component (EC) species within, the Groundfish FMP does not adversely (or otherwise) impact spatial protections in the Cordell Bank area, including those protections provided by the EFHCAs or the new GEA, or otherwise diminish safeguards for habitats or sensitive species. In a separate action, subject to full evaluation under the MSA and its implementing regulations, NEPA, and other applicable law, the Council and NMFS, consistent with their jurisdiction, have evaluated those stocks currently managed in the Groundfish FMP to determine if they are in need of conservation and management within the EEZ. This is a robust, stock- and fact-specific analysis. See 50 CFR 300.605(c). Following this evaluation, certain stocks will be proposed to be removed from the Groundfish FMP or re-classified as EC species. Any related future rulemakings will be subject to MSA and NEPA review and public notice and comment. Potential reasonably foreseeable effects of these future actions will appropriately be considered at that time. For the purposes of this final rule, even if a target species in the Cordell Bank area is taken out of the FMP at a future time and no longer Federally-managed, participating fishing vessels would still be subject to catch limits and any other management measures dictated by the State of California.

Classification

Pursuant to sections 303(c) and 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this rule is consistent with the Pacific Coast Groundfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

Administrative Procedures Act

There is good cause under 5 U.S.C. 553(d)(3) to make the rule effective immediately upon filing with the Office of the Federal Register as delaying the effectiveness of this rule would be contrary to the public interest. This rule effectuates the long-awaited opening of the Cordell Bank GCA, which will restore access to historical fishing grounds to groundfish fishermen in Central California. This rule will primarily benefit recreational fishermen in the San Francisco Management Area; specifically, fishermen running charter boats out of San Francisco and Bodega Bay. The rule is also likely to benefit non-trawl commercial fishermen fishing off Central California. A delayed effective date for this rule would be contrary to the public interest as it could have a substantial adverse economic impact on fishery participants and fishing communities.

The 2026 recreational fishery in the San Francisco Management Area opened on April 1, 2026, and will close on December 31, 2026. Though the season is 9 months long, the summer (June through August) is by far the fishery's busiest season. This busy season aligns with the summer tourist season, and with good weather conditions for fishing, in and off Central California. In recent years, participants in the California recreational fishery have struggled economically due to decreased fishing opportunities along the coast, including the lack of salmon fishing opportunity. For these fishery participants, the opening of the Cordell Bank GCA creates an important new fishing and economic opportunity and business plans and decisions for 2026 were likely made surrounding the anticipated opening of the GCA prior to the fishery's busy summer season. The Cordell Bank GCA was one of many fishery closures implemented along the U.S. West Coast in the early 2000s to protect overfished groundfish species. These closures resulted in significant adverse socio-economic impacts for fishermen and fishing communities. All of the once-overfished species are now rebuilt or rebuilding ahead of schedule and, in 2019, NMFS began restoring access to previously closed areas. The Council recommended this action to open the Cordell Bank GCA in March 2025. Accordingly, the relevant fishery stakeholders initially anticipated that this rule would be effective by January 1, 2026. NMFS has received feedback from fishery participants that business plans were made with the expectation that the GCA would be open for fishing before the recreational fishery opened on April 1, 2026. A delay in the effectiveness of this rule would result in further delay in the opening of the Cordell Bank GCA, beyond the date that the affected public was expecting; therefore, it would result in economic harm to fishery participants and fishing communities by continuing to constrain recreational fishing opportunity off the Central California coast during the fishery's busy summer season.

Making this rule effective upon filing with the Office of Federal Register is also in the public interest because it will benefit the public by providing additional opportunity for recreational fishermen in 2026 to fully utilize the California recreational fishery's annual groundfish allocations. According to information provided by the California Department of Fish and Wildlife (CDFW), the groundfish species targeted in and around the Cordell Bank GCA are generally underattained. Specifically, based on available data, CDFW has indicated that species that would likely be targeted by the recreational sector at Cordell Bank are highly underattained, with most species tracking at 40% or less attainment of their fishery harvest guideline or the overall non-trawl allocation. Opening the Cordell Bank GCA to fishing immediately, and particularly during the busy summer season, would therefore increase the likelihood of full utilization of the 2026 groundfish allocations. As such, making this rule effective immediately upon filing with the Office of the Federal Register would be consistent with the public interest, as it would support the Magnuson-Stevens Act's goal of promoting optimal yield within the fishery.

Finally, a delayed effective date is not necessary to provide sufficient notice to the fishing community. The purpose of the 30-day delayed effectiveness provision of the APA is generally to give the regulated community time to adjust to new regulations. The opening of historical fishing grounds creates no new restriction or requirement that warrants such time for adjustment. The only fishing area being newly closed as part of the GEA is the 2.5 sq mi (6.5 sq km) that prior allowed the use of non-bottom contact gear. Otherwise, the rest of the GEA includes area that is already closed, as it is within the geographic footprint of the former GCA. Moreover, the Cordell Bank GCA is no longer needed for its original purpose—to protect groundfish species. Therefore, it is in the public interest to increase fishing access on the California coast as soon as possible and good cause exists to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3). Increasing fishing access in the Cordell Bank area immediately upon the filing of this rule with the Office of Federal Register will provide additional opportunity for groundfish fishermen in 2026, which will increase the likelihood of full utilization of annual groundfish allocations.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

Executive Order 14192

This final rule is not an E.O. 14192 regulatory action because this rule is not significant under E.O. 12866.

Executive Order 13175

A Tribal summary impact statement under section (5)(b)(2)(B) and (c)(2) of E.O. 13175 was not required for this final rule because this action does not impose substantial direct compliance costs on Indian Tribal Governments, as the action area is outside of the Usual and Accustomed fishing areas for tribes with Federally-recognized treaties to fish for groundfish. Therefore, a Tribal summary impact statement is not required and has not been prepared.

Regulatory Impact Review (RIR)

An RIR was prepared to assess all costs and benefits of available regulatory alternatives. A copy of this Analysis is available from NMFS (see **ADDRESSES** section). NMFS is recommending this final rule based on its assessment of the net benefits of these measures.

Regulatory Flexibility Act

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

Paperwork Reduction Act

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

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Fishing vessels.

Dated: June 16, 2026.

Samuel D. Rauch III,

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

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

PART 660—FISHERIES OFF WEST COAST STATES

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

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

■ 2. Amend § 660.11 by:
■ a. In the definition for ''Conservation area(s)'':
■ i. Revising introductory text and paragraph (1) introductory text;
■ ii. Removing paragraphs (1)(iii) and (1)(v);
■ iii. Redesignating paragraph (1)(iv) as paragraph (1)(iii) and paragraphs (1)(vi) and (1)(vii) as paragraphs (1)(iv) and (1)(v);
■ iv. Adding paragraph (4); and
■ b. Revising the definition of ''Continuous transiting or transit through''.

The revisions and addition read as follows:

§ 660.11 General definitions.

* * * * *

Conservation area(s) means an enclosed geographic area defined by coordinates expressed in degrees of latitude and longitude where NMFS may prohibit fishing with particular gear types. Conservation areas include Groundfish Conservation Areas (GCA), Essential Fish Habitat Conservation Areas (EFHCA), Deep-sea Ecosystem Conservation Areas (DECA) and Groundfish Exclusion Areas (GEA).

(1) *Groundfish Conservation Area* or *GCA* means a conservation area created or modified and enforced to control catch of groundfish or protected species. Regulations at § 660.60(c)(3) describe the various purposes for which NMFS may implement certain types of GCAs through routine management measures. Regulations at § 660.70 further describe and define coordinates for certain GCAs, including Yelloweye Rockfish Conservation Areas and Cowcod Conservation Areas. GCAs also include closures bounded by the EEZ or depth-based lines approximating depth contours, including Bycatch Reduction Areas or BRAs, or bounded by depth contours and lines of latitude, including Block Area Closures, or BACs, and Rockfish Conservation Areas, or RCAs, which may be closed to fishing with particular gear types. BRA, BAC, and RCA boundaries may change seasonally according to conservation needs. Regulations at §§ 660.71 through 660.74, and 660.76 define depth-based boundary lines with latitude/longitude coordinates that may be used to enact depth-based closures. Regulations in this section describe commonly used geographic coordinates that define lines of latitude. Fishing prohibitions associated with GCAs are in addition to those associated with other conservation areas.

* * * * *

(4) *Groundfish Exclusion Areas* or *GEAs* are closed areas intended to mitigate potential impacts to sensitive environments from certain groundfish fishing activity. GEAs may prohibit fishing by certain groundfish sectors or certain groundfish gear types. Geographic coordinates for GEAs are defined at § 660.70.

* * * * *

Continuous transiting or transit through means that a vessel crosses a conservation area on a heading as nearly as practicable to a direct route, consistent with navigational safety, while maintaining expeditious headway throughout the transit without loitering or delay.

* * * * *

■ 3. Amend § 660.70 by:
■ a. Revising the section heading, paragraph (a), paragraph (t) introductory text;
■ b. Adding paragraph (t)(10); and
■ c. Removing paragraph (u).

The revisions and addition read as follows:

§ 660.70 Groundfish Conservation Areas and Groundfish Exclusion Areas.

(a) *General.* Groundfish conservation area (GCA) and groundfish exclusion area (GEA) are defined in § 660.11. This section defines GCAs and GEAs whose shapes are not exclusively defined by boundary lines approximating depth contours found in §§ 660.71 through 660.74 or commonly used geographic coordinates at § 660.11. Fishing activity that is prohibited or permitted within a particular GCA or GEA is detailed at subparts C through G of part 660.

* * * * *

(t) *Groundfish Exclusion Areas.* The Groundfish Exclusion Areas (GEAs) are closed areas intended to protect sensitive areas, including areas with coral and sea pens. GEAs are closed to both commercial and recreational groundfish fisheries unless otherwise noted.

* * * * *

(10) *Cordell Bank.* The Cordell Bank GEA is defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed and connecting back to 37°57.62′ N lat., 123°24.22′ W long.:

(i) 37°57.62′ N lat., 123°24.22′ W long.;
(ii) 37°57.70′ N lat., 123°25.25′ W long.;
(iii) 37°59.47′ N lat., 123°26.63′ W long.;
(iv) 38°00.24′ N lat., 123°27.87′ W long.;
(v) 38°00.98′ N lat., 123°27.65′ W long.;
(vi) 38°02.81′ N lat., 123°28.75′ W long.;
(vii) 38°04.26′ N lat., 123°29.25′ W long.;
(viii) 38°04.55′ N lat., 123°28.32′ W long.;
(ix) 38°03.87′ N lat., 123°27.69′ W long.;
(x) 38°04.27′ N lat., 123°26.68′ W long.;
(xi) 38°02.67′ N lat., 123°24.17′ W long.;
(xii) 38°00.87′ N lat., 123°23.15′ W long.;
(xiii) 37°59.32′ N lat., 123°22.52′ W long.; and
(xvi) 37°58.24′ N lat., 123°23.16′ W long.

■ 4. Amend § 660.73 by redesignating paragraphs (b) through (y) as paragraphs (c) through (z), and adding new paragraph (b) to read as follows:

§ 660.73 Latitude/longitude coordinates defining the 100 fm (183 m) through 150 fm (274 m) depth contours.

* * * * *

(b) *Cordell Bank 100 fm ring.* The 100-fm (183-m) depth contour around Cordell Bank off the State of California is defined by straight lines connecting all of the following points in the order stated:

(1) 38°03.18′ N lat., 123°20.77′ W long.;
(2) 38°06.29′ N lat., 123°25.03′ W long.;
(3) 38°06.34′ N lat., 123°29.32′ W long.;
(4) 38°04.57′ N lat., 123°31.30′ W long.;
(5) 38°02.32′ N lat., 123°31.07′ W long.;
(6) 38°00.00′ N lat., 123°28.40′ W long.;
(7) 37°58.10′ N lat., 123°26.66′ W long.;
(8) 37°55.07′ N lat., 123°26.81′ W long.;
(9) 38°00.00′ N lat., 123°23.08′ W long.; and connecting back to 38°03.18′ N lat., 123°20.77′ W long.

* * * * *

■ 5. Amend § 660.130 by:
■ a. Removing paragraph (e)(2);
■ b. Redesignating paragraph (e)(3) through (e)(7) as (e)(2) through (e)(6); and
■ c. Adding paragraph (h)
The addition reads as follows:

§ 660.130 Trawl fishery—management measures.

* * * * *

(h) *Groundfish Exclusion Areas (GEAs).* GEAs are closed areas defined by specific latitude and longitude coordinates (specified at § 660.70) where recreational and/or commercial fishing for groundfish is prohibited unless otherwise noted at § 660.70(t). It is unlawful to fish for, take and retain, possess (except for the purpose of continuous transit) or land groundfish within the GEAs unless otherwise specified at § 660.70(t). All prohibited fishing gear for targeting groundfish, as specified at § 660.70(t), must be stowed while transiting through a GEA. If fishing for non-groundfish species within a GEA, where all groundfish fishing is prohibited, then no groundfish may be on board the vessel.

■ 6. Amend § 660.230 by removing paragraphs (d)(15) and (16) and adding paragraph (h) to read as follows:

§ 660.230 Fixed gear fishery—management measures.

* * * * *

(h) *Groundfish exclusion areas (GEAs).* GEAs are closed areas defined by specific latitude and longitude coordinates (specified at § 660.70) where recreational and/or commercial fishing for groundfish is prohibited unless otherwise noted at § 660.70(t). It is unlawful to fish for, take and retain, possess (except for the purpose of continuous transit) or land groundfish within the GEAs unless otherwise specified at § 660.70(t). All prohibited fishing gear for targeting groundfish, as specified at § 660.70(t), must be stowed while transiting through a GEA. If fishing for non-groundfish species within a GEA, where all groundfish fishing is prohibited, then no groundfish may be on board the vessel.

■ 7. Amend § 660.330 by removing paragraphs (d)(17) and (18), and adding paragraph (h) to read as follows:

§ 660.330 Open access fishery—management measures.

* * * * *

(h) *Groundfish exclusion areas (GEAs).* GEAs are closed areas defined by specific latitude and longitude coordinates (specified at § 660.70) where recreational and/or commercial fishing for groundfish is prohibited unless otherwise noted at § 660.70(t). It is unlawful to fish for, take and retain, possess (except for the purpose of continuous transit) or land groundfish within the GEAs unless otherwise specified at § 660.70(t). All prohibited fishing gear for targeting groundfish, as specified at § 660.70(t), must be stowed while transiting through a GEA. If fishing for non-groundfish species within a GEA, where all groundfish fishing is prohibited, then no groundfish may be on board the vessel.

■ 8. Amend § 660.360 by:
■ a. Revising paragraphs (c)(3)(i)(A)(*3*) and (B);
■ b. Removing paragraph (c)(3)(i)(C); and
■ c. Redesignating paragraphs (c)(3)(i)(D) through (I) as paragraphs (c)(3)(i)(C) through (H).
The revisions read as follows:

§ 660.360 Recreational fishery—management measures.

* * * * *

(c) * * *
(3) * * *
(i) * * *
(A) * * *

(*3*) Between 38°57.50′ N lat. and 37°11′ N lat. (San Francisco Management Area), recreational fishing for the RCG Complex and lingcod is closed in the EEZ from January 1 through March 31, is prohibited in the EEZ shoreward of the boundary line approximating the 50-fm (91-m) depth contour along the mainland coast and along islands and offshore seamounts from April 1 through April 30, is closed in the EEZ from May 1 to September 30, is prohibited in the EEZ shoreward of the boundary line approximating the 50-fm (91-m) depth contour along the mainland coast and along islands and offshore seamounts from October 1 through October 31, is closed in the EEZ from November 1 through November 30, and is prohibited in the EEZ shoreward of the boundary line approximating the 50-fm (91-m) depth contour along the mainland coast and along islands and offshore seamounts from December 1 through December 31.

* * * * *

(B) *Groundfish exclusion areas (GEAs).* GEAs are closed areas defined by specific latitude and longitude coordinates (specified at § 660.70) where recreational and/or commercial fishing for groundfish is prohibited unless otherwise noted at § 660.70(t). It is unlawful to fish for, take and retain, possess (except for the purpose of continuous transit) or land groundfish within the GEAs unless otherwise specified at § 660.70(t). Recreational fishing gear for targeting groundfish may not be deployed while transiting through a GEA. If fishing for non-groundfish species within a GEA, then no groundfish may be on board the vessel.

* * * * *

[FR Doc. 2026–12566 Filed 6–22–26; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 91, No. 119
Tuesday, June 23, 2026

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[Doc. No. AMS–CN–26–0397]

Cotton Board Rules and Regulations: Adjusting Supplemental Assessment on Imports (2025 Amendments)

AGENCY: Agricultural Marketing Service, Department of Agriculture (USDA).

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to amend the Cotton Board Rules and Regulations to decrease the value assigned to imported cotton for the purposes of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program. This amendment is required each year to ensure that assessments collected on imported cotton, and the cotton content of imported products, will be the same as those paid on domestically produced cotton. In addition, AMS is updating the Import Assessment Table to account for changes since the last assessment adjustment in 2024.

DATES: Comments must be received by July 23, 2026.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments may be sent to Cotton Research and Promotion, Cotton and Tobacco Program, AMS, USDA, 3275 Appling Road, Memphis, Tennessee 38133 or via the internet at: *https://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register**. Comments submitted in response to this proposed rule will be included in the record and will be made available to the public and can be viewed at: *https://www.regulations.gov.* Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Sue Coleman, Branch Chief, Research and Promotion, Cotton and Tobacco Program, AMS, USDA, 3275 Appling Road, Memphis, Tennessee 38133; telephone (901) 384–3000; facsimile (901) 384–3033; or email at *CottonRP@usda.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Amendments to the Cotton Research and Promotion Act (7 U.S.C. 2101–2118) (Act) were enacted by Congress under subtitle G of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101–624, 104 Stat. 3909, November 28, 1990). These amendments contained two provisions that authorized changes in the funding procedures for the Cotton Research and Promotion Program. These provisions provided for: (1) the assessment of imported cotton and cotton products; and (2) termination of refunds to cotton producers. (Prior to the 1990 amendments to the Act, producers could request assessment refunds.)

As amended, the Cotton Research and Promotion Order (7 CFR part 1205) (Order) was approved by producers and importers voting in a referendum held July 17–26, 1991, and the amended Order was published in the **Federal Register** on December 10, 1991 (56 FR 64470). A proposed rule implementing the amended Order was published in the **Federal Register** on December 17, 1991 (56 FR 65450). Implementing rules were published on July 1 and 2, 1992 (57 FR 29181) and (57 FR 29431), respectively.

This proposed rule amends the value assigned to imported cotton in the Cotton Board Rules and Regulations (7 CFR 1205.510(b)(2)) (Regulations) that is used to determine the Cotton Research and Promotion assessment on imported cotton and cotton in cotton-containing products. The total rate of assessment levied on cotton imports is the sum of two parts. The first part of the assessment is based on the weight of cotton imported, levied at a rate of $1 per bale of cotton, which is subsequently converted to a fixed amount per kilogram to facilitate the U.S. Customs Service. For the purposes herein, a bale of cotton is equivalent to 500 pounds, or 226.8 kilograms. The second part of the import assessment (referred to as the supplemental assessment) is levied at a rate of five-tenths of one percent of the historical value of domestically produced cotton.

Section 1205.510(b)(2) of the Regulations provides for assigning the 12-month average of monthly weighted average prices received by U.S. farmers for Upland cotton to represent the value of imported cotton. The source for the weighted average price statistic is Cotton and Cottonseed Market Year Average Prices Received, *Agricultural Prices (September 2025),* a publication of the National Agricultural Statistics Service (NASS) of the U.S. Department of Agriculture. Use of the NASS weighted average price figure in the calculation of supplemental assessments on imported cotton and cotton in cotton-containing products yields an assessment that is the same as the assessment that is paid on domestically produced cotton.

The marketing year for cotton is defined by NASS as the period August 1 to July 31. As such, the NASS 2024 marketing year for cotton pricing began August 1, 2024, and ended July 31, 2025. Further, in computing the weighted average, NASS uses monthly prices and marketings that are expressed in a statistical bale weight of 480-pound net weight; therefore, a factor of 1.04167 (500/480) is utilized to convert the figure to a 500-pound net weight bale.

To determine the revised total rate of assessment, as proposed herein, the formula employed is as follows: [1]

One bale equals 500 pounds.

One kilogram (kg) equals 2.2046 pounds.

One pound equals 0.453592 kg.

One Dollar per Bale Assessment Converted to Kilograms

A 500-pound bale equals 226.8 kg. (500×0.453592).

The $1 per bale assessment equals $0.002 per pound (0.2 cents per pound) ($1/500) or $0.004409 per kg (0.4409 cents per kg) ($1/226.8).

Supplemental Assessment of 5/10 of One Percent of the Value of the Cotton Converted to Kilograms

As calculated by NASS, the 2024 marketing year weighted average price received by United States producers for Upland cotton was $0.632 per pound.

[1] Results are rounded for ease of presentation. Totals may not sum due to rounding.

That amount, converted to account for 500-pound bales, equals $0.658 ($0.632 × 1.04167).

That value, converted to kilograms, equals $1.4506 per kg ($0.658 × 2.2046).

Five tenths of one percent of that amount equals a $0.007253 per kg (0.7253 cents per kg) (1.4506 × 0.005) supplemental assessment.

Total Rate of Assessment

Therefore, the total rate of assessment per kilogram of raw cotton is the sum of the $1 per bale equivalent assessment ($0.004409 per kg) and the supplemental assessment ($0.007253 per kg), which equals $0.011662 per kg (1.1662 cents per kg).

The current total rate of assessment is 1.3247 cents per kg for imported cotton or cotton in cotton-containing products. The revised total rate of assessment, as proposed in this rule, would be 1.1662 cents per kg, a decrease of 0.1585 cents per kg. This reflects the decrease in the average of monthly weighted average prices of Upland cotton received by U.S. farmers during the NASS marketing year August 1, 2024, to July 31, 2025, which represents the 12-month period.

The Import Assessment Table in § 1205.510(b)(3) of the Order indicates the total rate of assessment in cents per kilogram due for each Harmonized Tariff Schedule of the United States (HTS) number that is subject to assessment. The United States International Trade Commission modifies the HTS, which is published at *https://hts.usitc.gov.* In this rule, AMS is proposing to amend the Import Assessment Table to revise the total rate of assessment to account for the change in the supplemental assessment rate. This table must be revised each year to reflect the change to the supplemental assessment rate and any changes to the HTS numbers and respective conversion factors.

The conversion factors are provided by the Economic Research Service (ERS) to reflect estimates of the cotton raw-fiber content by HTS number. The factors are derived from information obtained from textile industry contacts to estimate the amount of raw fiber required, including losses during the manufacturing process, to make each finished textile product (raw-fiber-equivalent quantity). ERS publishes the resulting raw-fiber-equivalent data in the *Cotton and Wool Outlook* and in the *Cotton and Wool Yearbook.*

AMS believes that these amendments are necessary to ensure that assessments collected on imported cotton and the cotton in cotton-containing products are the same as those paid on domestically produced cotton. Accordingly, changes reflected in the rule should be adopted and implemented as soon as possible, since it is required by regulation.

B. Rulemaking Analyses

Executive Order 12866

This action is exempt from the Office of Management and Budget (OMB) review process required by Executive Order 12866. This rule amends an existing research and promotion program and is necessary for the continued operation of the Cotton Research and Promotion Order. Additionally, this action is exempt from the requirements of Executive Order 14192, ''Unleashing Prosperity Through Deregulation,'' pursuant to section 5(c).

Executive Order 13175

This proposed rule has been reviewed under Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' which requires Federal agencies to consider whether their rulemaking actions would have Tribal implications. AMS has determined that this rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This proposed rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 12 of the Act, any person subject to an order may file with the Secretary of Agriculture (Secretary) a petition stating that the order, any provision of the plan, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling, provided a complaint is filed within 20 days from the date of the entry of the Secretary's ruling.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this proposed rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The Small Business Administration (SBA) defines, in 13 CFR 121.201, a small cotton farming business as those having annual receipts of no more than $3.25 million (North American Industry Classification System (NAICS) Code 111920) and small ''Other Farm Product Raw Material Merchant Wholesalers'' (cotton merchants/importers) (NAICS Code 424590) as having no more than 175 employees.

According to the NASS 2022 Agriculture Census, the number of cotton farms is 14,283. NASS also reports that the total U.S. production value for Upland production was $4,244,576,000 for the 2024 marketing year. Dividing the crop value by the number of cotton farms, the average crop value is approximately $297,177. Since $297,177 is well below $3.25 million and assuming a normal distribution, the majority of cotton producers are small according to the SBA standards.

The Cotton Board estimates approximately 36,000 importers are subject to the Cotton Research and Promotion Order. According to the United States Census Bureau's ''2022 Survey of SUSB Annual Data Tables by Establishment Industry,'' most importers are considered small entities as defined by the SBA (13 CFR 121.201).

This rule would only affect importers of cotton and cotton in cotton-containing products and would decrease the total rate of assessments paid by the importers under the Cotton Research and Promotion Order. The current assessment on imported cotton is 1.3247 cents per kg of imported cotton. The proposed amended total rate of assessment would be 1.1662 cents per kg, which was calculated based on the 12-month weighted average of prices received by U.S. cotton Upland farmers in the 2024 marketing year (August 1, 2024–July 31, 2025). The proposed supplemental rate of assessment follows § 1205.510 of the Order, which provides that ''[t]he rate of the supplemental assessment on imported cotton will be the same as that levied on cotton produced within the United States.'' Further, § 1205.510 provides that the 12-month average of monthly weighted average prices received by U.S. farmers is to be used as the value of imported cotton for the purpose of levying the supplemental assessment on imported

cotton and will be expressed in kilograms.

Under the Cotton Research and Promotion Program, assessments are used by the Cotton Board to finance research and promotion activities designed to increase consumer demand for Upland cotton in the United States and international markets. According to the Cotton Board Independent Auditor's Report for December 31, 2024, producer assessments totaled $35.4 million and importer assessments totaled $47.6 million. Based upon this report, should the volume of cotton products imported into the U.S. remain at the same level in 2025, one could expect a decrease of assessments, at the assessment rate proposed herein, by approximately $5,693,178.

No negative or disproportionate impacts on large or small entities are anticipated in connection with this proposed rule. The positive impacts, which are expected to accrue to all industry members, both large and small, are improved for the benefit of all commodity producers, handlers, importers, and consumers, regardless of size.

This proposed rule would decrease the supplemental assessment part of the total rate of assessment imposed on cotton importers. The supplemental assessment is a formula-based calculation that is calculated annually in accordance with the Order. There are no significant alternatives that would allow the importer assessment to remain at the same rate as that levied on cotton produced within the United States. Assessments are applied uniformly to all producers and importers, based upon their volume handled.

Imported organic cotton and cotton products may be exempt from assessment, if eligible under § 1205.519. Additionally, any importer can request a reimbursement for their part of their assessment that was collected on cotton produced in the United States, or on cotton that is not Upland cotton, by following the procedures in § 1205.520.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. chapter 35), the information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0093, National Research, Promotion, and Consumer Information Programs. No changes in those requirements would be necessary as a result of this proposed rule. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large cotton handlers or importers. Reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

After consideration of all relevant material and information presented, USDA has determined that this proposed rule is consistent with, and will effectuate the purposes of, the Act.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. All written comments timely received will be considered before a final determination is made on this rule.

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, AMS proposes to amend 7 CFR part 1205 as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

■ 1. The authority citation for part 1205 continues to read as follows:

Authority: 7 U.S.C. 2101–2118; 7 U.S.C 7401.

■ 2. In § 1205.510, paragraph (b)(2) and the table in paragraph (b)(3) are revised to read as follows:

§ 1205.510 Levy of assessments.

* * * * *

(b) * * *

(2) The 12-month average of monthly weighted average prices received by U.S. farmers will be calculated annually. Such weighted average will be used as the value of imported cotton for the purpose of levying the supplemental assessment on imported cotton and will be expressed in kilograms. The value of imported cotton for the purpose of levying the supplemental assessment is $1.4506 per kilogram. The total rate of assessment of $1 per bale and the supplemental assessment equals $0.011662 per kilogram or 1.1662 cents per kilogram for imported cotton or cotton in cotton-containing products.

(3) * * *

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
5007106010	0.2713	0.3164
5007106020	0.2713	0.3164
5007906010	0.2713	0.3164
5007906020	0.2713	0.3164
5112904000	0.1085	0.1265
5112905000	0.1085	0.1265
5112909010	0.1085	0.1265
5112909090	0.1085	0.1265
5201000500	1	1.1662
5201001200	1	1.1662
5201001400	1	1.1662
5201001800	1	1.1662
5201002200	1	1.1662
5201002400	1	1.1662
5201002800	1	1.1662
5201003400	1	1.1662
5201003800	1	1.1662
5204110000	1.0526	1.2275
5204190000	0.6316	0.7366
5204200000	1.0526	1.2275
5205111000	1	1.1662
5205112000	1	1.1662
5205121000	1	1.1662
5205122000	1	1.1662
5205131000	1	1.1662
5205132000	1	1.1662
5205141000	1	1.1662
5205142000	1	1.1662
5205151000	1	1.1662
5205152000	1	1.1662
5205210020	1.0440	1.2175
5205210090	1.0440	1.2175
5205220020	1.0440	1.2175
5205220090	1.0440	1.2175
5205230020	1.0440	1.2175
5205230090	1.0440	1.2175
5205240020	1.0440	1.2175
5205240090	1.0440	1.2175
5205260020	1.0440	1.2175
5205260090	1.0440	1.2175
5205270020	1.0440	1.2175
5205270090	1.0440	1.2175
5205280020	1.0440	1.2175
5205280090	1.0440	1.2175
5205310000	1	1.1662
5205320000	1	1.1662
5205330000	1	1.1662
5205340000	1	1.1662
5205350000	1	1.1662
5205410020	1.0440	1.2175
5205410090	1.0440	1.2175
5205420021	1.0440	1.2175
5205420029	1.0440	1.2175
5205420090	1.0440	1.2175
5205430021	1.0440	1.2175
5205430029	1.0440	1.2175
5205430090	1.0440	1.2175
5205440021	1.0440	1.2175
5205440029	1.0440	1.2175
5205440090	1.0440	1.2175
5205460021	1.0440	1.2175
5205460029	1.0440	1.2175
5205460090	1.0440	1.2175
5205470021	1.0440	1.2175
5205470029	1.0440	1.2175
5205470090	1.0440	1.2175
5205480020	1.0440	1.2175
5205480090	1.0440	1.2175
5206110000	0.7368	0.8593

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
5206120000	0.7368	0.8593
5206130000	0.7368	0.8593
5206140000	0.7368	0.8593
5206150000	0.7368	0.8593
5206210000	0.7692	0.8970
5206220000	0.7692	0.8970
5206230000	0.7692	0.8970
5206240000	0.7692	0.8970
5206250000	0.7692	0.8970
5206310000	0.7368	0.8593
5206320000	0.7368	0.8593
5206330000	0.7368	0.8593
5206340000	0.7368	0.8593
5206350000	0.7368	0.8593
5206410000	0.7692	0.8970
5206420000	0.7692	0.8970
5206430000	0.7692	0.8970
5206440000	0.7692	0.8970
5206450000	0.7692	0.8970
5207100000	0.9474	1.1049
5207900000	0.6316	0.7366
5208112020	1.0852	1.2656
5208112040	1.0852	1.2656
5208112090	1.0852	1.2656
5208114020	1.0852	1.2656
5208114040	1.0852	1.2656
5208114060	1.0852	1.2656
5208114090	1.0852	1.2656
5208116000	1.0852	1.2656
5208118020	1.0852	1.2656
5208118090	1.0852	1.2656
5208124020	1.0852	1.2656
5208124040	1.0852	1.2656
5208124090	1.0852	1.2656
5208126020	1.0852	1.2656
5208126040	1.0852	1.2656
5208126060	1.0852	1.2656
5208126090	1.0852	1.2656
5208128020	1.0852	1.2656
5208128090	1.0852	1.2656
5208130000	1.0852	1.2656
5208192020	1.0852	1.2656
5208192090	1.0852	1.2656
5208194020	1.0852	1.2656
5208194090	1.0852	1.2656
5208196020	1.0852	1.2656
5208196090	1.0852	1.2656
5208198020	1.0852	1.2656
5208198090	1.0852	1.2656
5208212020	1.0852	1.2656
5208212040	1.0852	1.2656
5208212090	1.0852	1.2656
5208214020	1.0852	1.2656
5208214040	1.0852	1.2656
5208214060	1.0852	1.2656
5208214090	1.0852	1.2656
5208216020	1.0852	1.2656
5208216090	1.0852	1.2656
5208224020	1.0852	1.2656
5208224040	1.0852	1.2656
5208224090	1.0852	1.2656
5208226020	1.0852	1.2656
5208226040	1.0852	1.2656
5208226060	1.0852	1.2656
5208226090	1.0852	1.2656
5208228020	1.0852	1.2656
5208228090	1.0852	1.2656
5208230000	1.0852	1.2656

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
5208292020	1.0852	1.2656
5208292090	1.0852	1.2656
5208294020	1.0852	1.2656
5208294090	1.0852	1.2656
5208296020	1.0852	1.2656
5208296090	1.0852	1.2656
5208298020	1.0852	1.2656
5208298090	1.0852	1.2656
5208312000	1.0852	1.2656
5208314020	1.0852	1.2656
5208314040	1.0852	1.2656
5208314090	1.0852	1.2656
5208316020	1.0852	1.2656
5208316040	1.0852	1.2656
5208316060	1.0852	1.2656
5208316090	1.0852	1.2656
5208318020	1.0852	1.2656
5208318090	1.0852	1.2656
5208321000	1.0852	1.2656
5208323020	1.0852	1.2656
5208323040	1.0852	1.2656
5208323090	1.0852	1.2656
5208324020	1.0852	1.2656
5208324040	1.0852	1.2656
5208324060	1.0852	1.2656
5208324090	1.0852	1.2656
5208325020	1.0852	1.2656
5208325090	1.0852	1.2656
5208330000	1.0852	1.2656
5208392020	1.0852	1.2656
5208392090	1.0852	1.2656
5208394020	1.0852	1.2656
5208394090	1.0852	1.2656
5208396020	1.0852	1.2656
5208396090	1.0852	1.2656
5208398020	1.0852	1.2656
5208398090	1.0852	1.2656
5208412000	1.0852	1.2656
5208414000	1.0852	1.2656
5208416000	1.0852	1.2656
5208418000	1.0852	1.2656
5208421000	1.0852	1.2656
5208423000	1.0852	1.2656
5208424000	1.0852	1.2656
5208425000	1.0852	1.2656
5208430000	1.0852	1.2656
5208492000	1.0852	1.2656
5208494010	1.0852	1.2656
5208494020	1.0852	1.2656
5208494090	1.0852	1.2656
5208496010	1.0852	1.2656
5208496020	1.0852	1.2656
5208496030	1.0852	1.2656
5208496090	1.0852	1.2656
5208498020	1.0852	1.2656
5208498090	1.0852	1.2656
5208512000	1.0852	1.2656
5208514020	1.0852	1.2656
5208514040	1.0852	1.2656
5208514090	1.0852	1.2656
5208516020	1.0852	1.2656
5208516040	1.0852	1.2656
5208516060	1.0852	1.2656
5208516090	1.0852	1.2656
5208518020	1.0852	1.2656
5208518090	1.0852	1.2656
5208521000	1.0852	1.2656
5208523020	1.0852	1.2656

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
5208523035	1.0852	1.2656
5208523045	1.0852	1.2656
5208523090	1.0852	1.2656
5208524020	1.0852	1.2656
5208524035	1.0852	1.2656
5208524045	1.0852	1.2656
5208524055	1.0852	1.2656
5208524065	1.0852	1.2656
5208524090	1.0852	1.2656
5208525020	1.0852	1.2656
5208525090	1.0852	1.2656
5208591000	1.0852	1.2656
5208592015	1.0852	1.2656
5208592025	1.0852	1.2656
5208592085	1.0852	1.2656
5208592095	1.0852	1.2656
5208594020	1.0852	1.2656
5208594090	1.0852	1.2656
5208596020	1.0852	1.2656
5208596090	1.0852	1.2656
5208598020	1.0852	1.2656
5208598090	1.0852	1.2656
5209110020	1.0309	1.2022
5209110025	1.0309	1.2022
5209110035	1.0309	1.2022
5209110050	1.0309	1.2022
5209110090	1.0309	1.2022
5209120020	1.0309	1.2022
5209120040	1.0309	1.2022
5209190020	1.0309	1.2022
5209190040	1.0309	1.2022
5209190060	1.0309	1.2022
5209190090	1.0309	1.2022
5209210020	1.0309	1.2022
5209210025	1.0309	1.2022
5209210035	1.0309	1.2022
5209210050	1.0309	1.2022
5209210090	1.0309	1.2022
5209220020	1.0309	1.2022
5209220040	1.0309	1.2022
5209290020	1.0309	1.2022
5209290040	1.0309	1.2022
5209290060	1.0309	1.2022
5209290090	1.0309	1.2022
5209313000	1.0309	1.2022
5209316020	1.0309	1.2022
5209316025	1.0309	1.2022
5209316035	1.0309	1.2022
5209316050	1.0309	1.2022
5209316090	1.0309	1.2022
5209320020	1.0309	1.2022
5209320040	1.0309	1.2022
5209390020	1.0309	1.2022
5209390040	1.0309	1.2022
5209390060	1.0309	1.2022
5209390080	1.0309	1.2022
5209390090	1.0309	1.2022
5209413000	1.0309	1.2022
5209416020	1.0309	1.2022
5209416040	1.0309	1.2022
5209420020	0.9767	1.1390
5209420040	0.9767	1.1390
5209420060	0.9767	1.1390
5209420080	0.9767	1.1390
5209430030	1.0309	1.2022
5209430050	1.0309	1.2022
5209490020	1.0309	1.2022
5209490040	1.0309	1.2022

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
5209490090	1.0309	1.2022
5209513000	1.0309	1.2022
5209516015	1.0852	1.2656
5209516025	1.0852	1.2656
5209516032	1.0852	1.2656
5209516035	1.0852	1.2656
5209516050	1.0852	1.2656
5209516090	1.0852	1.2656
5209520020	1.0852	1.2656
5209520040	1.0852	1.2656
5209590015	1.0852	1.2656
5209590025	1.0852	1.2656
5209590040	1.0852	1.2656
5209590060	1.0852	1.2656
5209590090	1.0852	1.2656
5210114020	0.6511	0.7593
5210114040	0.6511	0.7593
5210114090	0.6511	0.7593
5210116020	0.6511	0.7593
5210116040	0.6511	0.7593
5210116060	0.6511	0.7593
5210116090	0.6511	0.7593
5210118020	0.6511	0.7593
5210118090	0.6511	0.7593
5210191000	0.6511	0.7593
5210192020	0.6511	0.7593
5210192090	0.6511	0.7593
5210194020	0.6511	0.7593
5210194090	0.6511	0.7593
5210196020	0.6511	0.7593
5210196090	0.6511	0.7593
5210198020	0.6511	0.7593
5210198090	0.6511	0.7593
5210214020	0.6511	0.7593
5210214040	0.6511	0.7593
5210214090	0.6511	0.7593
5210216020	0.6511	0.7593
5210216040	0.6511	0.7593
5210216060	0.6511	0.7593
5210216090	0.6511	0.7593
5210218020	0.6511	0.7593
5210218090	0.6511	0.7593
5210291000	0.6511	0.7593
5210292020	0.6511	0.7593
5210292090	0.6511	0.7593
5210294020	0.6511	0.7593
5210294090	0.6511	0.7593
5210296020	0.6511	0.7593
5210296090	0.6511	0.7593
5210298020	0.6511	0.7593
5210298090	0.6511	0.7593
5210314020	0.6511	0.7593
5210314040	0.6511	0.7593
5210314090	0.6511	0.7593
5210316020	0.6511	0.7593
5210316040	0.6511	0.7593
5210316060	0.6511	0.7593
5210316090	0.6511	0.7593
5210318020	0.6511	0.7593
5210318090	0.6511	0.7593
5210320000	0.6511	0.7593
5210392020	0.6511	0.7593
5210392090	0.6511	0.7593
5210394020	0.6511	0.7593
5210394090	0.6511	0.7593
5210396020	0.6511	0.7593
5210396090	0.6511	0.7593
5210398020	0.6511	0.7593

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
5210398090	0.6511	0.7593
5210414000	0.6511	0.7593
5210416000	0.6511	0.7593
5210418000	0.6511	0.7593
5210491000	0.6511	0.7593
5210492000	0.6511	0.7593
5210494010	0.6511	0.7593
5210494020	0.6511	0.7593
5210494090	0.6511	0.7593
5210496010	0.6511	0.7593
5210496020	0.6511	0.7593
5210496090	0.6511	0.7593
5210498020	0.6511	0.7593
5210498090	0.6511	0.7593
5210514020	0.6511	0.7593
5210514040	0.6511	0.7593
5210514090	0.6511	0.7593
5210516020	0.6511	0.7593
5210516040	0.6511	0.7593
5210516060	0.6511	0.7593
5210516090	0.6511	0.7593
5210518020	0.6511	0.7593
5210518090	0.6511	0.7593
5210591000	0.6511	0.7593
5210592020	0.6511	0.7593
5210592090	0.6511	0.7593
5210594020	0.6511	0.7593
5210594090	0.6511	0.7593
5210596020	0.6511	0.7593
5210596090	0.6511	0.7593
5210598020	0.6511	0.7593
5210598090	0.6511	0.7593
5211110020	0.6511	0.7593
5211110025	0.6511	0.7593
5211110035	0.6511	0.7593
5211110050	0.6511	0.7593
5211110090	0.6511	0.7593
5211120020	0.6511	0.7593
5211120040	0.6511	0.7593
5211190020	0.6511	0.7593
5211190040	0.6511	0.7593
5211190060	0.6511	0.7593
5211190090	0.6511	0.7593
5211202120	0.6511	0.7593
5211202125	0.6511	0.7593
5211202135	0.6511	0.7593
5211202150	0.6511	0.7593
5211202190	0.6511	0.7593
5211202220	0.6511	0.7593
5211202240	0.6511	0.7593
5211202920	0.6511	0.7593
5211202940	0.6511	0.7593
5211202960	0.6511	0.7593
5211202990	0.6511	0.7593
5211310020	0.6511	0.7593
5211310025	0.6511	0.7593
5211310035	0.6511	0.7593
5211310050	0.6511	0.7593
5211310090	0.6511	0.7593
5211320020	0.6511	0.7593
5211320040	0.6511	0.7593
5211390020	0.6511	0.7593
5211390040	0.6511	0.7593
5211390060	0.6511	0.7593
5211390090	0.6511	0.7593
5211410020	0.6511	0.7593
5211410040	0.6511	0.7593
5211420020	0.7054	0.8226

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
5211420040	0.7054	0.8226
5211420060	0.6511	0.7593
5211420080	0.6511	0.7593
5211430030	0.6511	0.7593
5211430050	0.6511	0.7593
5211490020	0.6511	0.7593
5211490090	0.6511	0.7593
5211510020	0.6511	0.7593
5211510030	0.6511	0.7593
5211510050	0.6511	0.7593
5211510090	0.6511	0.7593
5211520020	0.6511	0.7593
5211520040	0.6511	0.7593
5211590015	0.6511	0.7593
5211590025	0.6511	0.7593
5211590040	0.6511	0.7593
5211590060	0.6511	0.7593
5211590090	0.6511	0.7593
5212111010	0.5845	0.6816
5212111020	0.6231	0.7267
5212116010	0.8681	1.0124
5212116020	0.8681	1.0124
5212116030	0.8681	1.0124
5212116040	0.8681	1.0124
5212116050	0.8681	1.0124
5212116060	0.8681	1.0124
5212116070	0.8681	1.0124
5212116080	0.8681	1.0124
5212116090	0.8681	1.0124
5212121010	0.5845	0.6816
5212121020	0.6231	0.7267
5212126010	0.8681	1.0124
5212126020	0.8681	1.0124
5212126030	0.8681	1.0124
5212126040	0.8681	1.0124
5212126050	0.8681	1.0124
5212126060	0.8681	1.0124
5212126070	0.8681	1.0124
5212126080	0.8681	1.0124
5212126090	0.8681	1.0124
5212131010	0.5845	0.6816
5212131020	0.6231	0.7267
5212136010	0.8681	1.0124
5212136020	0.8681	1.0124
5212136030	0.8681	1.0124
5212136040	0.8681	1.0124
5212136050	0.8681	1.0124
5212136060	0.8681	1.0124
5212136070	0.8681	1.0124
5212136080	0.8681	1.0124
5212136090	0.8681	1.0124
5212141010	0.5845	0.6816
5212141020	0.6231	0.7267
5212146010	0.8681	1.0124
5212146020	0.8681	1.0124
5212146030	0.8681	1.0124
5212146090	0.8681	1.0124
5212151010	0.5845	0.6816
5212151020	0.6231	0.7267
5212156010	0.8681	1.0124
5212156020	0.8681	1.0124
5212156030	0.8681	1.0124
5212156040	0.8681	1.0124
5212156050	0.8681	1.0124
5212156060	0.8681	1.0124
5212156070	0.8681	1.0124
5212156080	0.8681	1.0124
5212156090	0.8681	1.0124

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
5212211010	0.5845	0.6816
5212211020	0.6231	0.7267
5212216010	0.8681	1.0124
5212216020	0.8681	1.0124
5212216030	0.8681	1.0124
5212216040	0.8681	1.0124
5212216050	0.8681	1.0124
5212216060	0.8681	1.0124
5212216090	0.8681	1.0124
5212221010	0.5845	0.6816
5212221020	0.6231	0.7267
5212226010	0.8681	1.0124
5212226020	0.8681	1.0124
5212226030	0.8681	1.0124
5212226040	0.8681	1.0124
5212226050	0.8681	1.0124
5212226060	0.8681	1.0124
5212226090	0.8681	1.0124
5212231010	0.5845	0.6816
5212231020	0.6231	0.7267
5212236010	0.8681	1.0124
5212236020	0.8681	1.0124
5212236030	0.8681	1.0124
5212236040	0.8681	1.0124
5212236050	0.8681	1.0124
5212236060	0.8681	1.0124
5212236090	0.8681	1.0124
5212241010	0.5845	0.6816
5212241020	0.6231	0.7267
5212246010	0.8681	1.0124
5212246020	0.7054	0.8226
5212246030	0.8681	1.0124
5212246040	0.8681	1.0124
5212246090	0.8681	1.0124
5212251010	0.5845	0.6816
5212251020	0.6231	0.7267
5212256010	0.8681	1.0124
5212256020	0.8681	1.0124
5212256030	0.8681	1.0124
5212256040	0.8681	1.0124
5212256050	0.8681	1.0124
5212256060	0.8681	1.0124
5212256090	0.8681	1.0124
5309213005	0.5426	0.6328
5309213010	0.5426	0.6328
5309213015	0.5426	0.6328
5309213020	0.5426	0.6328
5309214010	0.2713	0.3164
5309214090	0.2713	0.3164
5309293005	0.5426	0.6328
5309293010	0.5426	0.6328
5309293015	0.5426	0.6328
5309293020	0.5426	0.6328
5309294010	0.2713	0.3164
5309294090	0.2713	0.3164
5311003005	0.5426	0.6328
5311003010	0.5426	0.6328
5311003015	0.5426	0.6328
5311003020	0.5426	0.6328
5311004010	0.8681	1.0124
5311004020	0.8681	1.0124
5407810010	0.5426	0.6328
5407810020	0.5426	0.6328
5407810030	0.5426	0.6328
5407810040	0.5426	0.6328
5407810090	0.5426	0.6328
5407820010	0.5426	0.6328
5407820020	0.5426	0.6328

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
5407820030	0.5426	0.6328
5407820040	0.5426	0.6328
5407820090	0.5426	0.6328
5407830010	0.5426	0.6328
5407830020	0.5426	0.6328
5407830030	0.5426	0.6328
5407830040	0.5426	0.6328
5407830090	0.5426	0.6328
5407840010	0.5426	0.6328
5407840020	0.5426	0.6328
5407840030	0.5426	0.6328
5407840040	0.5426	0.6328
5407840090	0.5426	0.6328
5509210000	0.1053	0.1228
5509220010	0.1053	0.1228
5509220090	0.1053	0.1228
5509530030	0.3158	0.3683
5509530060	0.3158	0.3683
5509620000	0.5263	0.6138
5509920000	0.5263	0.6138
5510300000	0.3684	0.4296
5511200000	0.3158	0.3683
5512110010	0.1085	0.1265
5512110022	0.1085	0.1265
5512110027	0.1085	0.1265
5512110030	0.1085	0.1265
5512110040	0.1085	0.1265
5512110050	0.1085	0.1265
5512110060	0.1085	0.1265
5512110070	0.1085	0.1265
5512110090	0.1085	0.1265
5512190005	0.1085	0.1265
5512190010	0.1085	0.1265
5512190015	0.1085	0.1265
5512190022	0.1085	0.1265
5512190027	0.1085	0.1265
5512190030	0.1085	0.1265
5512190035	0.1085	0.1265
5512190040	0.1085	0.1265
5512190045	0.1085	0.1265
5512190050	0.1085	0.1265
5512190090	0.1085	0.1265
5512210010	0.0326	0.0380
5512210020	0.0326	0.0380
5512210030	0.0326	0.0380
5512210040	0.0326	0.0380
5512210060	0.0326	0.0380
5512210070	0.0326	0.0380
5512210090	0.0326	0.0380
5512290010	0.2170	0.2531
5512910010	0.0543	0.0633
5512990005	0.0543	0.0633
5512990010	0.0543	0.0633
5512990015	0.0543	0.0633
5512990020	0.0543	0.0633
5512990025	0.0543	0.0633
5512990030	0.0543	0.0633
5512990035	0.0543	0.0633
5512990040	0.0543	0.0633
5512990045	0.0543	0.0633
5512990090	0.0543	0.0633
5513110020	0.3581	0.4176
5513110040	0.3581	0.4176
5513110060	0.3581	0.4176
5513110090	0.3581	0.4176
5513120000	0.3581	0.4176
5513130020	0.3581	0.4176
5513130040	0.3581	0.4176

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
5513130090	0.3581	0.4176
5513190010	0.3581	0.4176
5513190020	0.3581	0.4176
5513190030	0.3581	0.4176
5513190040	0.3581	0.4176
5513190050	0.3581	0.4176
5513190060	0.3581	0.4176
5513190090	0.3581	0.4176
5513210020	0.3581	0.4176
5513210040	0.3581	0.4176
5513210060	0.3581	0.4176
5513210090	0.3581	0.4176
5513230121	0.3581	0.4176
5513230141	0.3581	0.4176
5513230191	0.3581	0.4176
5513290010	0.3581	0.4176
5513290020	0.3581	0.4176
5513290030	0.3581	0.4176
5513290040	0.3581	0.4176
5513290050	0.3581	0.4176
5513290060	0.3581	0.4176
5513290090	0.3581	0.4176
5513310000	0.3581	0.4176
5513390111	0.3581	0.4176
5513390115	0.3581	0.4176
5513390191	0.3581	0.4176
5513410020	0.3581	0.4176
5513410040	0.3581	0.4176
5513410060	0.3581	0.4176
5513410090	0.3581	0.4176
5513491000	0.3581	0.4176
5513492020	0.3581	0.4176
5513492040	0.3581	0.4176
5513492090	0.3581	0.4176
5513499010	0.3581	0.4176
5513499020	0.3581	0.4176
5513499030	0.3581	0.4176
5513499040	0.3581	0.4176
5513499050	0.3581	0.4176
5513499060	0.3581	0.4176
5513499090	0.3581	0.4176
5514110020	0.4341	0.5062
5514110030	0.4341	0.5062
5514110050	0.4341	0.5062
5514110090	0.4341	0.5062
5514120020	0.4341	0.5062
5514120040	0.4341	0.5062
5514191020	0.4341	0.5062
5514191040	0.4341	0.5062
5514191090	0.4341	0.5062
5514199010	0.4341	0.5062
5514199020	0.4341	0.5062
5514199030	0.4341	0.5062
5514199040	0.4341	0.5062
5514199090	0.4341	0.5062
5514210020	0.4341	0.5062
5514210030	0.4341	0.5062
5514210050	0.4341	0.5062
5514210090	0.4341	0.5062
5514220020	0.4341	0.5062
5514220040	0.4341	0.5062
5514230020	0.4341	0.5062
5514230040	0.4341	0.5062
5514230090	0.4341	0.5062
5514290010	0.4341	0.5062
5514290020	0.4341	0.5062
5514290030	0.4341	0.5062
5514290040	0.4341	0.5062

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
5514290090	0.4341	0.5062
5514303100	0.4341	0.5062
5514303210	0.4341	0.5062
5514303215	0.4341	0.5062
5514303280	0.4341	0.5062
5514303310	0.4341	0.5062
5514303390	0.4341	0.5062
5514303910	0.4341	0.5062
5514303920	0.4341	0.5062
5514303990	0.4341	0.5062
5514410020	0.4341	0.5062
5514410030	0.4341	0.5062
5514410050	0.4341	0.5062
5514410090	0.4341	0.5062
5514420020	0.4341	0.5062
5514420040	0.4341	0.5062
5514430020	0.4341	0.5062
5514430040	0.4341	0.5062
5514430090	0.4341	0.5062
5514490010	0.4341	0.5062
5514490020	0.4341	0.5062
5514490030	0.4341	0.5062
5514490040	0.4341	0.5062
5514490090	0.4341	0.5062
5515110005	0.1085	0.1265
5515110010	0.1085	0.1265
5515110015	0.1085	0.1265
5515110020	0.1085	0.1265
5515110025	0.1085	0.1265
5515110030	0.1085	0.1265
5515110035	0.1085	0.1265
5515110040	0.1085	0.1265
5515110045	0.1085	0.1265
5515110090	0.1085	0.1265
5515120010	0.1085	0.1265
5515120022	0.1085	0.1265
5515120027	0.1085	0.1265
5515120030	0.1085	0.1265
5515120040	0.1085	0.1265
5515120090	0.1085	0.1265
5515190005	0.1085	0.1265
5515190010	0.1085	0.1265
5515190015	0.1085	0.1265
5515190020	0.1085	0.1265
5515190025	0.1085	0.1265
5515190030	0.1085	0.1265
5515190035	0.1085	0.1265
5515190040	0.1085	0.1265
5515190045	0.1085	0.1265
5515190090	0.1085	0.1265
5515290005	0.1085	0.1265
5515290010	0.1085	0.1265
5515290015	0.1085	0.1265
5515290020	0.1085	0.1265
5515290025	0.1085	0.1265
5515290030	0.1085	0.1265
5515290035	0.1085	0.1265
5515290040	0.1085	0.1265
5515290045	0.1085	0.1265
5515290090	0.1085	0.1265
5515999005	0.1085	0.1265
5515999010	0.1085	0.1265
5515999015	0.1085	0.1265
5515999020	0.1085	0.1265
5515999025	0.1085	0.1265
5515999030	0.1085	0.1265
5515999035	0.1085	0.1265
5515999040	0.1085	0.1265

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
5515999045	0.1085	0.1265
5515999090	0.1085	0.1265
5516210010	0.1085	0.1265
5516210020	0.1085	0.1265
5516210030	0.1085	0.1265
5516210040	0.1085	0.1265
5516210090	0.1085	0.1265
5516220010	0.1085	0.1265
5516220020	0.1085	0.1265
5516220030	0.1085	0.1265
5516220040	0.1085	0.1265
5516220090	0.1085	0.1265
5516230010	0.1085	0.1265
5516230020	0.1085	0.1265
5516230030	0.1085	0.1265
5516230040	0.1085	0.1265
5516230090	0.1085	0.1265
5516240010	0.1085	0.1265
5516240020	0.1085	0.1265
5516240030	0.1085	0.1265
5516240040	0.1085	0.1265
5516240085	0.1085	0.1265
5516240095	0.1085	0.1265
5516410010	0.3798	0.4429
5516410022	0.3798	0.4429
5516410027	0.3798	0.4429
5516410030	0.3798	0.4429
5516410040	0.3798	0.4429
5516410050	0.3798	0.4429
5516410060	0.3798	0.4429
5516410070	0.3798	0.4429
5516410090	0.3798	0.4429
5516420010	0.3798	0.4429
5516420022	0.3798	0.4429
5516420027	0.3798	0.4429
5516420030	0.3798	0.4429
5516420040	0.3798	0.4429
5516420050	0.3798	0.4429
5516420060	0.3798	0.4429
5516420070	0.3798	0.4429
5516420090	0.3798	0.4429
5516430010	0.2170	0.2531
5516430015	0.3798	0.4429
5516430020	0.3798	0.4429
5516430035	0.3798	0.4429
5516430080	0.3798	0.4429
5516440010	0.3798	0.4429
5516440022	0.3798	0.4429
5516440027	0.3798	0.4429
5516440030	0.3798	0.4429
5516440040	0.3798	0.4429
5516440050	0.3798	0.4429
5516440060	0.3798	0.4429
5516440070	0.3798	0.4429
5516440090	0.3798	0.4429
5516910010	0.0543	0.0633
5516910020	0.0543	0.0633
5516910030	0.0543	0.0633
5516910040	0.0543	0.0633
5516910050	0.0543	0.0633
5516910060	0.0543	0.0633
5516910070	0.0543	0.0633
5516910090	0.0543	0.0633
5516920010	0.0543	0.0633
5516920020	0.0543	0.0633
5516920030	0.0543	0.0633
5516920040	0.0543	0.0633
5516920050	0.0543	0.0633

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
5516920060	0.0543	0.0633
5516920070	0.0543	0.0633
5516920090	0.0543	0.0633
5516930010	0.0543	0.0633
5516930020	0.0543	0.0633
5516930090	0.0543	0.0633
5516940010	0.0543	0.0633
5516940020	0.0543	0.0633
5516940030	0.0543	0.0633
5516940040	0.0543	0.0633
5516940050	0.0543	0.0633
5516940060	0.0543	0.0633
5516940070	0.0543	0.0633
5516940090	0.0543	0.0633
5601210010	0.9767	1.1390
5601210090	0.9767	1.1390
5601220010	0.1085	0.1265
5601220050	0.1085	0.1265
5601220091	0.1085	0.1265
5601300000	0.3256	0.3797
5602101000	0.0543	0.0633
5602109090	0.4341	0.5062
5602290000	0.4341	0.5062
5602909000	0.3256	0.3797
5603143000	0.2713	0.3164
5603910010	0.0217	0.0253
5603910090	0.0651	0.0759
5603920010	0.0217	0.0253
5603920070	0.0651	0.0759
5603920095	0.0651	0.0759
5603930010	0.0217	0.0253
5603930090	0.0651	0.0759
5603941090	0.3256	0.3797
5603943000	0.1628	0.1899
5603949010	0.0326	0.0380
5604100000	0.2632	0.3069
5604909000	0.2105	0.2455
5605009000	0.1579	0.1841
5606000010	0.1263	0.1473
5606000090	0.1263	0.1473
5607502500	0.1684	0.1964
5607909000	0.8421	0.9821
5608902300	0.6316	0.7366
5608902700	0.6316	0.7366
5608903000	0.3158	0.3683
5609001000	0.8421	0.9821
5609004000	0.2105	0.2455
5701101300	0.0526	0.0613
5701101600	0.0526	0.0613
5701104000	0.0526	0.0613
5701109000	0.0526	0.0613
5701901010	1	1.1662
5701901020	1	1.1662
5701901030	0.0526	0.0613
5701901090	0.0526	0.0613
5701902010	0.9474	1.1049
5701902020	0.9474	1.1049
5701902030	0.0526	0.0613
5701902090	0.0526	0.0613
5702101000	0.0447	0.0521
5702109010	0.0447	0.0521
5702109020	0.8500	0.9913
5702109030	0.0447	0.0521
5702109090	0.0447	0.0521
5702201000	0.0447	0.0521
5702311000	0.0447	0.0521
5702312000	0.0895	0.1044
5702322000	0.0895	0.1044

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
5702391000	0.0895	0.1044
5702392010	0.8053	0.9391
5702392090	0.0447	0.0521
5702411000	0.0447	0.0521
5702412000	0.0447	0.0521
5702421000	0.0895	0.1044
5702422020	0.0895	0.1044
5702422080	0.0895	0.1044
5702491020	0.8947	1.0434
5702491080	0.8947	1.0434
5702492000	0.0895	0.1044
5702502000	0.0895	0.1044
5702504000	0.0447	0.0521
5702505200	0.0895	0.1044
5702505600	0.8500	0.9913
5702912000	0.0447	0.0521
5702913000	0.0447	0.0521
5702914000	0.0447	0.0521
5702921000	0.0447	0.0521
5702929000	0.0447	0.0521
5702990500	0.8947	1.0434
5702991500	0.8947	1.0434
5703291000	0.0452	0.0527
5703292010	0.0452	0.0527
5703391000	0.0452	0.0527
5703900000	0.3615	0.4216
5705001000	0.0452	0.0527
5705002005	0.0452	0.0527
5705002015	0.0452	0.0527
5705002020	0.7682	0.8959
5705002030	0.0452	0.0527
5705002090	0.1808	0.2108
5801210000	0.9767	1.1390
5801221000	0.9767	1.1390
5801229000	0.9767	1.1390
5801230000	0.9767	1.1390
5801260010	0.7596	0.8858
5801260020	0.7596	0.8858
5801271000	0.9767	1.1390
5801275010	1.0852	1.2656
5801275020	0.9767	1.1390
5801310000	0.2170	0.2531
5801320000	0.2170	0.2531
5801330000	0.2170	0.2531
5801360010	0.2170	0.2531
5801360020	0.2170	0.2531
5802101000	1.0309	1.2022
5802109000	1.0309	1.2022
5802200020	0.1085	0.1265
5802200090	0.3256	0.3797
5802300030	0.4341	0.5062
5802300090	0.1085	0.1265
5803001000	1.0852	1.2656
5803002000	0.8681	1.0124
5803003000	0.8681	1.0124
5803005000	0.3256	0.3797
5804101000	0.4341	0.5062
5804109090	0.2193	0.2557
5804291000	0.8772	1.0230
5804300020	0.3256	0.3797
5805001000	0.1085	0.1265
5805003000	1.0852	1.2656
5806101000	0.8681	1.0124
5806103090	0.2170	0.2531
5806200010	0.2577	0.3005
5806200090	0.2577	0.3005
5806310000	0.8681	1.0124
5806393080	0.2170	0.2531

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
5806400000	0.0814	0.0949
5807100510	0.8681	1.0124
5807102010	0.8681	1.0124
5807900510	0.8681	1.0124
5807902010	0.8681	1.0124
5808104000	0.2170	0.2531
5808107000	0.2170	0.2531
5808900010	0.4341	0.5062
5810100000	0.3256	0.3797
5810910010	0.7596	0.8858
5810910020	0.7596	0.8858
5810921000	0.2170	0.2531
5810929030	0.2170	0.2531
5810929050	0.2170	0.2531
5810929080	0.2170	0.2531
5811002000	0.8681	1.0124
5901102000	0.5643	0.6581
5901904000	0.8139	0.9492
5903101000	0.4341	0.5062
5903103000	0.1085	0.1265
5903201000	0.4341	0.5062
5903203090	0.1085	0.1265
5903901000	0.4341	0.5062
5903903090	0.1085	0.1265
5904901000	0.0326	0.0380
5905001000	0.1085	0.1265
5905009000	0.1085	0.1265
5906100000	0.4341	0.5062
5906911000	0.4341	0.5062
5906913000	0.1085	0.1265
5906991000	0.4341	0.5062
5906993000	0.1085	0.1265
5907002500	0.3798	0.4429
5907003500	0.3798	0.4429
5907008090	0.3798	0.4429
5908000000	0.7813	0.9112
5909001000	0.6837	0.7973
5909002000	0.4883	0.5695
5910001010	0.3798	0.4429
5910001020	0.3798	0.4429
5910001030	0.3798	0.4429
5910001060	0.3798	0.4429
5910001070	0.3798	0.4429
5910001090	0.6837	0.7973
5910009000	0.5697	0.6644
5911101000	0.1736	0.2025
5911102000	0.0434	0.0506
5911201000	0.4341	0.5062
5911310010	0.4341	0.5062
5911310020	0.4341	0.5062
5911310030	0.4341	0.5062
5911310080	0.4341	0.5062
5911320010	0.4341	0.5062
5911320020	0.4341	0.5062
5911320030	0.4341	0.5062
5911320080	0.4341	0.5062
5911400100	0.5426	0.6328
5911900040	0.3158	0.3683
5911900080	0.2105	0.2455
6001106000	0.1096	0.1278
6001210000	0.9868	1.1508
6001220000	0.1096	0.1278
6001290000	0.1096	0.1278
6001910010	0.8772	1.0230
6001910020	0.8772	1.0230
6001920010	0.0548	0.0639
6001920020	0.0548	0.0639
6001920030	0.0548	0.0639

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6001920040	0.0548	0.0639
6001999000	0.1096	0.1278
6002404000	0.7401	0.8631
6002408020	0.1974	0.2302
6002408080	0.1974	0.2302
6002904000	0.7895	0.9207
6002908020	0.1974	0.2302
6002908080	0.1974	0.2302
6003201000	0.8772	1.0230
6003203000	0.8772	1.0230
6003301000	0.1096	0.1278
6003306000	0.1096	0.1278
6003401000	0.1096	0.1278
6003406000	0.1096	0.1278
6003901000	0.1096	0.1278
6003909000	0.1096	0.1278
6004100010	0.2961	0.3453
6004100025	0.2961	0.3453
6004100085	0.2961	0.3453
6004902010	0.2961	0.3453
6004902025	0.2961	0.3453
6004902085	0.2961	0.3453
6004909000	0.2961	0.3453
6005210000	0.7127	0.8312
6005220000	0.7127	0.8312
6005230000	0.7127	0.8312
6005240000	0.7127	0.8312
6005360010	0.1096	0.1278
6005360080	0.1096	0.1278
6005370010	0.1096	0.1278
6005370080	0.1096	0.1278
6005380010	0.1096	0.1278
6005380080	0.1096	0.1278
6005390010	0.1096	0.1278
6005390080	0.1096	0.1278
6005410010	0.1096	0.1278
6005410080	0.1096	0.1278
6005420010	0.1096	0.1278
6005420080	0.1096	0.1278
6005430010	0.1096	0.1278
6005430080	0.1096	0.1278
6005440010	0.1096	0.1278
6005440080	0.1096	0.1278
6005909000	0.1096	0.1278
6006211000	1.0965	1.2787
6006219020	0.7675	0.8951
6006219080	0.7675	0.8951
6006221000	1.0965	1.2787
6006229020	0.7675	0.8951
6006229080	0.7675	0.8951
6006231000	1.0965	1.2787
6006239020	0.7675	0.8951
6006239080	0.7675	0.8951
6006241000	1.0965	1.2787
6006249020	0.7675	0.8951
6006249080	0.7675	0.8951
6006310020	0.3289	0.3836
6006310040	0.3289	0.3836
6006310060	0.3289	0.3836
6006310080	0.3289	0.3836
6006320020	0.3289	0.3836
6006320040	0.3289	0.3836
6006320060	0.3289	0.3836
6006320080	0.3289	0.3836
6006330020	0.3289	0.3836
6006330040	0.3289	0.3836
6006330060	0.3289	0.3836
6006330080	0.3289	0.3836

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6006340020	0.3289	0.3836
6006340040	0.3289	0.3836
6006340060	0.3289	0.3836
6006340080	0.3289	0.3836
6006410025	0.3289	0.3836
6006410085	0.3289	0.3836
6006420025	0.3289	0.3836
6006420085	0.3289	0.3836
6006430025	0.3289	0.3836
6006430085	0.3289	0.3836
6006440025	0.3289	0.3836
6006440085	0.3289	0.3836
6006909000	0.1096	0.1278
6101200010	1.0200	1.1895
6101200020	1.0200	1.1895
6101301000	0.2072	0.2416
6101900500	0.1912	0.2230
6101909010	0.5737	0.6690
6101909030	0.5100	0.5948
6101909060	0.2550	0.2974
6102100000	0.2550	0.2974
6102200010	0.9562	1.1151
6102200020	0.9562	1.1151
6102300500	0.1785	0.2082
6102909005	0.5737	0.6690
6102909015	0.4462	0.5204
6102909030	0.2550	0.2974
6103101000	0.0637	0.0743
6103104000	0.1218	0.1420
6103105000	0.1218	0.1420
6103106010	0.8528	0.9945
6103106015	0.8528	0.9945
6103106030	0.8528	0.9945
6103109010	0.5482	0.6393
6103109020	0.5482	0.6393
6103109030	0.5482	0.6393
6103109040	0.1218	0.1420
6103109050	0.1218	0.1420
6103109080	0.1827	0.2131
6103220040	0.7919	0.9235
6103220050	0.7919	0.9235
6103220080	0.9747	1.1367
6103230040	0.2437	0.2842
6103230045	0.2437	0.2842
6103230070	0.1218	0.1420
6103230075	0.3655	0.4262
6103292054	0.1218	0.1420
6103320000	0.8722	1.0172
6103398010	0.7476	0.8719
6103398030	0.3738	0.4359
6103398060	0.2492	0.2906
6103411010	0.3576	0.4170
6103411020	0.3576	0.4170
6103412000	0.3576	0.4170
6103421020	0.8343	0.9730
6103421035	0.8343	0.9730
6103421040	0.8343	0.9730
6103421050	0.8343	0.9730
6103421065	0.8343	0.9730
6103421070	0.8343	0.9730
6103422010	0.8343	0.9730
6103422015	0.8343	0.9730
6103422025	0.8343	0.9730
6103431520	0.2384	0.2780
6103431535	0.2384	0.2780
6103431540	0.2384	0.2780
6103431550	0.2384	0.2780
6103431565	0.2384	0.2780

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6103431570	0.2384	0.2780
6103432020	0.2384	0.2780
6103432025	0.2384	0.2780
6103491020	0.2437	0.2842
6103491060	0.2437	0.2842
6103492000	0.2437	0.2842
6103498010	0.5482	0.6393
6103498014	0.3655	0.4262
6103498024	0.2437	0.2842
6103498026	0.2437	0.2842
6103498034	0.5482	0.6393
6103498038	0.3655	0.4262
6103498060	0.2437	0.2842
6104196010	0.8722	1.0172
6104196020	0.8722	1.0172
6104196030	0.8722	1.0172
6104196040	0.8722	1.0172
6104198010	0.5607	0.6539
6104198020	0.5607	0.6539
6104198030	0.5607	0.6539
6104198040	0.5607	0.6539
6104198060	0.3738	0.4359
6104198090	0.2492	0.2906
6104220010	0.8528	0.9945
6104220030	0.8528	0.9945
6104220040	0.8528	0.9945
6104220050	0.8528	0.9945
6104220060	0.8528	0.9945
6104220080	0.7310	0.8525
6104220090	0.8528	0.9945
6104230020	0.1218	0.1420
6104230026	0.1218	0.1420
6104230030	0.1218	0.1420
6104230032	0.1827	0.2131
6104230034	0.1827	0.2131
6104230036	0.1827	0.2131
6104291010	0.1218	0.1420
6104291020	0.1218	0.1420
6104291050	0.1827	0.2131
6104320000	0.8722	1.0172
6104392010	0.5607	0.6539
6104392030	0.3738	0.4359
6104392090	0.2492	0.2906
6104420010	0.8528	0.9945
6104420020	0.8528	0.9945
6104499010	0.5482	0.6393
6104499030	0.3655	0.4262
6104499060	0.2437	0.2842
6104520010	0.8822	1.0288
6104520020	0.8822	1.0288
6104598010	0.5672	0.6615
6104598030	0.3781	0.4409
6104598090	0.2521	0.2940
6104610010	0.2384	0.2780
6104610020	0.2384	0.2780
6104610030	0.2384	0.2780
6104621010	0.7509	0.8757
6104621020	0.8343	0.9730
6104621030	0.8343	0.9730
6104622006	0.7151	0.8339
6104622011	0.8343	0.9730
6104622016	0.7151	0.8339
6104622021	0.8343	0.9730
6104622026	0.7151	0.8339
6104622028	0.8343	0.9730
6104622030	0.8343	0.9730
6104622050	0.8343	0.9730
6104622060	0.8343	0.9730

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6104631020	0.2384	0.2780
6104631030	0.2384	0.2780
6104632006	0.8343	0.9730
6104632011	0.8343	0.9730
6104632016	0.7151	0.8339
6104632021	0.8343	0.9730
6104632026	0.3576	0.4170
6104632028	0.3576	0.4170
6104632030	0.3576	0.4170
6104632050	0.7151	0.8339
6104632060	0.3576	0.4170
6104691000	0.3655	0.4262
6104692030	0.3655	0.4262
6104692060	0.3655	0.4262
6104698010	0.5482	0.6393
6104698014	0.3655	0.4262
6104698020	0.2437	0.2842
6104698022	0.5482	0.6393
6104698026	0.3655	0.4262
6104698038	0.2437	0.2842
6104698040	0.2437	0.2842
6105100010	0.9332	1.0883
6105100020	0.9332	1.0883
6105100030	0.9332	1.0883
6105202010	0.2916	0.3401
6105202020	0.2916	0.3401
6105202030	0.2916	0.3401
6105908010	0.5249	0.6121
6105908030	0.3499	0.4081
6105908060	0.2333	0.2721
6106100010	0.9332	1.0883
6106100020	0.9332	1.0883
6106100030	0.9332	1.0883
6106202010	0.2916	0.3401
6106202020	0.4666	0.5441
6106202030	0.2916	0.3401
6106901500	0.0583	0.0680
6106902510	0.5249	0.6121
6106902530	0.3499	0.4081
6106902550	0.2916	0.3401
6106903010	0.5249	0.6121
6106903030	0.3499	0.4081
6106903040	0.2916	0.3401
6107110010	1.0727	1.2510
6107110020	1.0727	1.2510
6107120010	0.4767	0.5559
6107120020	0.4767	0.5559
6107191000	0.1192	0.1390
6107210010	0.8343	0.9730
6107210020	0.7151	0.8339
6107220010	0.3576	0.4170
6107220015	0.1192	0.1390
6107220025	0.2384	0.2780
6107299000	0.1788	0.2085
6107910030	1.1918	1.3899
6107910040	1.1918	1.3899
6107910090	0.9535	1.1120
6107991030	0.3576	0.4170
6107991040	0.3576	0.4170
6107991090	0.3576	0.4170
6107999000	0.1192	0.1390
6108199010	1.0611	1.2375
6108199030	0.2358	0.2750
6108210010	1.1790	1.3749
6108210020	1.1790	1.3749
6108299000	0.3537	0.4125
6108310010	1.0611	1.2375
6108310020	1.0611	1.2375

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6108320010	0.2358	0.2750
6108320015	0.2358	0.2750
6108320025	0.2358	0.2750
6108398000	0.3537	0.4125
6108910005	1.1790	1.3749
6108910015	1.1790	1.3749
6108910025	1.1790	1.3749
6108910030	1.1790	1.3749
6108910040	1.1790	1.3749
6108920005	0.2358	0.2750
6108920015	0.2358	0.2750
6108920025	0.2358	0.2750
6108920030	0.2358	0.2750
6108920040	0.2358	0.2750
6108999000	0.3537	0.4125
6109100004	1.0022	1.1688
6109100007	1.0022	1.1688
6109100011	1.0022	1.1688
6109100012	1.0022	1.1688
6109100014	1.0022	1.1688
6109100018	1.0022	1.1688
6109100023	1.0022	1.1688
6109100027	1.0022	1.1688
6109100037	1.0022	1.1688
6109100040	1.0022	1.1688
6109100045	1.0022	1.1688
6109100060	1.0022	1.1688
6109100065	1.0022	1.1688
6109100070	1.0022	1.1688
6109901007	0.2948	0.3438
6109901009	0.2948	0.3438
6109901013	0.2948	0.3438
6109901025	0.2948	0.3438
6109901047	0.2948	0.3438
6109901049	0.2948	0.3438
6109901050	0.2948	0.3438
6109901060	0.2948	0.3438
6109901065	0.2948	0.3438
6109901070	0.2948	0.3438
6109901075	0.2948	0.3438
6109901090	0.2948	0.3438
6109908010	0.3499	0.4081
6109908030	0.2333	0.2721
6110201010	0.7476	0.8719
6110201020	0.7476	0.8719
6110201022	0.7476	0.8719
6110201024	0.7476	0.8719
6110201026	0.7476	0.8719
6110201029	0.7476	0.8719
6110201031	0.7476	0.8719
6110201033	0.7476	0.8719
6110202005	1.1214	1.3078
6110202010	1.1214	1.3078
6110202015	1.1214	1.3078
6110202020	1.1214	1.3078
6110202025	1.1214	1.3078
6110202030	1.1214	1.3078
6110202035	1.1214	1.3078
6110202041	1.0965	1.2787
6110202044	1.0965	1.2787
6110202046	1.0965	1.2787
6110202049	1.0965	1.2787
6110202067	1.0965	1.2787
6110202069	1.0965	1.2787
6110202077	1.0965	1.2787
6110202079	1.0965	1.2787
6110909010	0.5607	0.6539
6110909012	0.1246	0.1453

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6110909014	0.3738	0.4359
6110909023	0.2492	0.2906
6110909026	0.5607	0.6539
6110909028	0.1869	0.2180
6110909030	0.3738	0.4359
6110909041	0.2492	0.2906
6110909044	0.5607	0.6539
6110909046	0.5607	0.6539
6110909052	0.3738	0.4359
6110909054	0.3738	0.4359
6110909064	0.2492	0.2906
6110909066	0.2492	0.2906
6110909067	0.5607	0.6539
6110909069	0.5607	0.6539
6110909071	0.5607	0.6539
6110909073	0.5607	0.6539
6110909079	0.3738	0.4359
6110909080	0.3738	0.4359
6110909081	0.3738	0.4359
6110909082	0.3738	0.4359
6110909088	0.2492	0.2906
6110909090	0.2492	0.2906
6111201000	1.1918	1.3899
6111202000	1.1918	1.3899
6111203000	0.9535	1.1120
6111204000	0.9535	1.1120
6111205000	0.9535	1.1120
6111206010	0.9535	1.1120
6111206020	0.9535	1.1120
6111206030	0.9535	1.1120
6111206050	0.9535	1.1120
6111206070	0.9535	1.1120
6111301000	0.2384	0.2780
6111302000	0.2384	0.2780
6111303000	0.2384	0.2780
6111304000	0.2384	0.2780
6111305010	0.2384	0.2780
6111305015	0.2384	0.2780
6111305020	0.2384	0.2780
6111305030	0.2384	0.2780
6111305050	0.2384	0.2780
6111305070	0.2384	0.2780
6111901000	0.2384	0.2780
6111902000	0.2384	0.2780
6111903000	0.2384	0.2780
6111904000	0.2384	0.2780
6111905010	0.2384	0.2780
6111905020	0.2384	0.2780
6111905030	0.2384	0.2780
6111905050	0.2384	0.2780
6111905070	0.2384	0.2780
6112110010	0.9535	1.1120
6112110020	0.9535	1.1120
6112110030	0.9535	1.1120
6112110040	0.9535	1.1120
6112110050	0.9535	1.1120
6112110060	0.9535	1.1120
6112120010	0.2384	0.2780
6112120020	0.2384	0.2780
6112120030	0.2384	0.2780
6112120040	0.2384	0.2780
6112120050	0.2384	0.2780
6112120060	0.2384	0.2780
6112191010	0.2492	0.2906
6112191020	0.2492	0.2906
6112191030	0.2492	0.2906
6112191040	0.2492	0.2906
6112191050	0.2492	0.2906

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6112191060	0.2492	0.2906
6112201060	0.2492	0.2906
6112201070	0.2492	0.2906
6112201080	0.2492	0.2906
6112201090	0.2492	0.2906
6112202010	0.8722	1.0172
6112202020	0.3738	0.4359
6112202030	0.2492	0.2906
6112310010	0.1192	0.1390
6112310020	0.1192	0.1390
6112390010	1.0727	1.2510
6112410010	0.1192	0.1390
6112410020	0.1192	0.1390
6112410030	0.1192	0.1390
6112410040	0.1192	0.1390
6112490010	0.8939	1.0425
6113001005	0.1246	0.1453
6113001010	0.1246	0.1453
6113001012	0.1246	0.1453
6113009015	0.3489	0.4069
6113009020	0.3489	0.4069
6113009038	0.3489	0.4069
6113009042	0.3489	0.4069
6113009055	0.3489	0.4069
6113009060	0.3489	0.4069
6113009074	0.3489	0.4069
6113009082	0.3489	0.4069
6114200005	0.9747	1.1367
6114200010	0.9747	1.1367
6114200015	0.8528	0.9945
6114200020	0.8528	0.9945
6114200035	0.8528	0.9945
6114200040	0.8528	0.9945
6114200042	0.3655	0.4262
6114200044	0.8528	0.9945
6114200046	0.8528	0.9945
6114200048	0.8528	0.9945
6114200052	0.8528	0.9945
6114200055	0.8528	0.9945
6114200060	0.8528	0.9945
6114301010	0.2437	0.2842
6114301020	0.2437	0.2842
6114302060	0.1218	0.1420
6114303014	0.2437	0.2842
6114303020	0.2437	0.2842
6114303030	0.2437	0.2842
6114303042	0.2437	0.2842
6114303044	0.2437	0.2842
6114303052	0.2437	0.2842
6114303054	0.2437	0.2842
6114303060	0.2437	0.2842
6114303070	0.2437	0.2842
6114909045	0.5482	0.6393
6114909055	0.3655	0.4262
6114909070	0.3655	0.4262
6115100500	0.4386	0.5115
6115101510	1.0965	1.2787
6115103000	0.9868	1.1508
6115106000	0.1096	0.1278
6115298010	1.0965	1.2787
6115309030	0.7675	0.8951
6115956000	0.9868	1.1508
6115959000	0.9868	1.1508
6115966020	0.2193	0.2557
6115991420	0.2193	0.2557
6115991920	0.2193	0.2557
6115999000	0.1096	0.1278
6116101300	0.3463	0.4039

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6116101720	0.8079	0.9422
6116104810	0.4444	0.5183
6116105510	0.6464	0.7538
6116107510	0.6464	0.7538
6116109500	0.1616	0.1885
6116920500	0.8079	0.9422
6116920800	0.8079	0.9422
6116926410	1.0388	1.2114
6116926420	1.0388	1.2114
6116926430	1.1542	1.3460
6116926440	1.0388	1.2114
6116927450	1.0388	1.2114
6116927460	1.1542	1.3460
6116927470	1.0388	1.2114
6116928800	1.0388	1.2114
6116929400	1.0388	1.2114
6116938800	0.1154	0.1346
6116939400	0.1154	0.1346
6116994800	0.1154	0.1346
6116995400	0.1154	0.1346
6116999510	0.4617	0.5384
6116999530	0.3463	0.4039
6117106010	0.9234	1.0769
6117106020	0.2308	0.2692
6117808500	0.9234	1.0769
6117808710	1.1542	1.3460
6117808770	0.1731	0.2019
6117809510	0.9234	1.0769
6117809540	0.3463	0.4039
6117809570	0.1731	0.2019
6117909003	1.1542	1.3460
6117909015	0.2308	0.2692
6117909020	1.1542	1.3460
6117909040	1.1542	1.3460
6117909060	1.1542	1.3460
6117909080	1.1542	1.3460
6201301200	0.8981	1.0474
6201302010	1.0602	1.2364
6201302020	1.0602	1.2364
6201302025	1.2473	1.4546
6201302035	1.2473	1.4546
6201302050	0.8108	0.9456
6201302060	0.8108	0.9456
6201303000	0.6486	0.7564
6201304000	0.8108	0.9456
6201305005	0.8108	0.9456
6201305010	0.8108	0.9456
6201305021	1.2473	1.4546
6201305031	1.2473	1.4546
6201305041	1.2473	1.4546
6201305051	0.8108	0.9456
6201305061	0.8108	0.9456
6201306000	0.6486	0.7564
6201307000	0.8108	0.9456
6201308005	0.8108	0.9456
6201308010	0.8108	0.9456
6201308021	1.2473	1.4546
6201308031	1.2473	1.4546
6201308041	1.2473	1.4546
6201308051	0.8108	0.9456
6201308061	0.8108	0.9456
6201402015	0.2495	0.2910
6201402020	0.2495	0.2910
6201402030	0.3118	0.3636
6201402040	0.3118	0.3636
6201405011	0.3118	0.3636
6201405021	0.3118	0.3636
6201407511	0.3118	0.3636

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6201407521	0.3118	0.3636
6201902910	0.5613	0.6546
6201902930	0.3742	0.4364
6201902960	0.3742	0.4364
6201904910	0.5613	0.6546
6201904930	0.3742	0.4364
6201904960	0.3742	0.4364
6201906910	0.5613	0.6546
6201906930	0.3742	0.4364
6201906960	0.3742	0.4364
6202301200	0.8879	1.0355
6202302010	1.0482	1.2224
6202302020	1.0482	1.2224
6202302025	1.2332	1.4382
6202302035	1.2332	1.4382
6202302050	0.8016	0.9348
6202302060	0.8016	0.9348
6202303000	0.9865	1.1505
6202304000	0.9865	1.1505
6202305010	0.9865	1.1505
6202305020	0.9865	1.1505
6202305026	1.2332	1.4382
6202305031	1.2332	1.4382
6202305061	0.9865	1.1505
6202305071	0.9865	1.1505
6202306000	0.9865	1.1505
6202307000	0.9865	1.1505
6202308010	0.9865	1.1505
6202308020	0.9865	1.1505
6202308026	1.2332	1.4382
6202308031	1.2332	1.4382
6202308061	0.9865	1.1505
6202308071	0.9865	1.1505
6202402005	0.2524	0.2943
6202402010	0.2524	0.2943
6202402020	0.3155	0.3679
6202402030	0.3155	0.3679
6202402500	0.2960	0.3452
6202403510	0.2466	0.2876
6202403520	0.2466	0.2876
6202405011	0.2466	0.2876
6202405021	0.2466	0.2876
6202405500	0.2960	0.3452
6202406010	0.2466	0.2876
6202406020	0.2466	0.2876
6202407511	0.2466	0.2876
6202407521	0.2466	0.2876
6202902910	0.5678	0.6622
6202902930	0.3786	0.4415
6202902960	0.2524	0.2943
6202904911	0.5549	0.6471
6202904931	0.3700	0.4315
6202904961	0.2466	0.2876
6202906911	0.5549	0.6471
6202906931	0.3700	0.4315
6202906961	0.2466	0.2876
6203122010	0.1233	0.1438
6203122020	0.1233	0.1438
6203191010	0.9865	1.1505
6203191020	0.9865	1.1505
6203191030	0.9865	1.1505
6203199010	0.5549	0.6471
6203199020	0.5549	0.6471
6203199030	0.5549	0.6471
6203199050	0.37	0.4315
6203199080	0.2466	0.2876
6203221000	1.2332	1.4382
6203223010	0.9865	1.1505

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6203223015	0.9865	1.1505
6203223020	0.9865	1.1505
6203223030	0.9865	1.1505
6203223050	0.9865	1.1505
6203223060	0.9865	1.1505
6203230050	0.3083	0.3595
6203230055	0.3083	0.3595
6203230060	0.3083	0.3595
6203230070	0.3083	0.3595
6203230080	0.3083	0.3595
6203230090	0.3083	0.3595
6203321000	0.6782	0.7909
6203322010	1.1715	1.3662
6203322020	1.1715	1.3662
6203322030	1.1715	1.3662
6203322040	1.1715	1.3662
6203322050	1.1715	1.3662
6203332010	0.1233	0.1438
6203332020	0.1233	0.1438
6203392010	0.1233	0.1438
6203392020	0.1233	0.1438
6203399010	0.5549	0.6471
6203399030	0.3700	0.4315
6203399060	0.2466	0.2876
6203420300	1.0616	1.2380
6203420505	0.7077	0.8253
6203420510	0.9436	1.1004
6203420525	0.9436	1.1004
6203420550	0.9436	1.1004
6203420590	0.9436	1.1004
6203420703	1.0616	1.2380
6203420706	1.1796	1.3756
6203420711	1.1796	1.3756
6203420716	0.9436	1.1004
6203420721	1.1796	1.3756
6203420726	1.1796	1.3756
6203420731	1.1796	1.3756
6203420736	1.1796	1.3756
6203420741	0.9436	1.1004
6203420746	0.9436	1.1004
6203420751	0.8752	1.0207
6203420756	0.8752	1.0207
6203420761	0.8752	1.0207
6203421700	1.0616	1.2380
6203422505	0.7077	0.8253
6203422510	0.9436	1.1004
6203422525	0.9436	1.1004
6203422550	0.9436	1.1004
6203422590	0.9436	1.1004
6203424503	1.0616	1.2380
6203424506	1.1796	1.3756
6203424511	1.1796	1.3756
6203424514	0.9436	1.1004
6203424518	0.9436	1.1004
6203424521	1.1796	1.3756
6203424526	1.1796	1.3756
6203424531	1.1796	1.3756
6203424536	1.1796	1.3756
6203424541	0.9436	1.1004
6203424546	0.9436	1.1004
6203424551	0.8752	1.0207
6203424556	0.8752	1.0207
6203424561	0.8752	1.0207
6203430100	0.1887	0.2201
6203430300	0.1180	0.1376
6203430505	0.1180	0.1376
6203430510	0.2359	0.2751
6203430525	0.2359	0.2751

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6203430550	0.2359	0.2751
6203430590	0.2359	0.2751
6203431110	0.0590	0.0688
6203431190	0.0590	0.0688
6203431310	0.1167	0.1361
6203431315	0.1167	0.1361
6203431320	0.1167	0.1361
6203431330	0.1167	0.1361
6203431335	0.1167	0.1361
6203431340	0.1167	0.1361
6203434500	0.1887	0.2201
6203435500	0.1180	0.1376
6203436005	0.1180	0.1376
6203436010	0.2359	0.2751
6203436025	0.2359	0.2751
6203436050	0.2359	0.2751
6203436090	0.2359	0.2751
6203436500	0.4128	0.4814
6203437510	0.0590	0.0688
6203437590	0.0590	0.0688
6203439009	0.1167	0.1361
6203439011	0.1167	0.1361
6203439015	0.1167	0.1361
6203439020	0.1167	0.1361
6203439030	0.1167	0.1361
6203439035	0.1167	0.1361
6203439040	0.1167	0.1361
6203490105	0.1180	0.1376
6203490110	0.2359	0.2751
6203490125	0.2359	0.2751
6203490150	0.2359	0.2751
6203490190	0.2359	0.2751
6203490515	0.2359	0.2751
6203490520	0.2359	0.2751
6203490530	0.1180	0.1376
6203490545	0.1180	0.1376
6203490550	0.1180	0.1376
6203490560	0.1180	0.1376
6203490920	0.5308	0.6190
6203490930	0.3539	0.4127
6203490945	0.2359	0.2751
6203492505	0.1180	0.1376
6203492510	0.2359	0.2751
6203492525	0.2359	0.2751
6203492550	0.2359	0.2751
6203492590	0.2359	0.2751
6203493500	0.4128	0.4814
6203495015	0.2359	0.2751
6203495020	0.2359	0.2751
6203495030	0.1180	0.1376
6203495045	0.1180	0.1376
6203495050	0.1180	0.1376
6203495060	0.1180	0.1376
6203499020	0.5308	0.6190
6203499030	0.3539	0.4127
6203499045	0.2359	0.2751
6204110000	0.0617	0.0720
6204120010	0.9865	1.1505
6204120020	0.9865	1.1505
6204120030	0.9865	1.1505
6204120040	0.9865	1.1505
6204132010	0.1233	0.1438
6204132020	0.1233	0.1438
6204192000	0.1233	0.1438
6204198010	0.5549	0.6471
6204198020	0.5549	0.6471
6204198030	0.5549	0.6471
6204198040	0.5549	0.6471

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6204198060	0.3083	0.3595
6204198090	0.2466	0.2876
6204221000	1.2332	1.4382
6204223010	0.9865	1.1505
6204223030	0.9865	1.1505
6204223040	0.9865	1.1505
6204223050	0.9865	1.1505
6204223060	0.9865	1.1505
6204223065	0.9865	1.1505
6204223070	0.9865	1.1505
6204230030	0.3083	0.3595
6204230035	0.3083	0.3595
6204230040	0.3083	0.3595
6204230045	0.3083	0.3595
6204230050	0.3083	0.3595
6204230055	0.3083	0.3595
6204230060	0.3083	0.3595
6204292015	0.3083	0.3595
6204292020	0.3083	0.3595
6204292040	0.3083	0.3595
6204292050	0.3083	0.3595
6204294010	0.5549	0.6471
6204294022	0.5549	0.6471
6204294034	0.5549	0.6471
6204294047	0.2466	0.2876
6204294070	0.5549	0.6471
6204294082	0.5549	0.6471
6204294092	0.2466	0.2876
6204321000	0.6782	0.7909
6204322010	1.1715	1.3662
6204322020	1.1715	1.3662
6204322030	0.9865	1.1505
6204322040	0.9865	1.1505
6204398010	0.5549	0.6471
6204398030	0.3083	0.3595
6204412010	0.0603	0.0703
6204412020	0.0603	0.0703
6204421000	1.2058	1.4062
6204422000	0.6632	0.7734
6204423010	1.2058	1.4062
6204423020	1.2058	1.4062
6204423030	0.9043	1.0546
6204423040	0.9043	1.0546
6204423050	0.9043	1.0546
6204423060	0.9043	1.0546
6204431000	0.4823	0.5625
6204432000	0.0603	0.0703
6204442000	0.4316	0.5033
6204495010	0.5549	0.6471
6204495030	0.2466	0.2876
6204510010	0.0631	0.0736
6204510020	0.0631	0.0736
6204521000	1.2618	1.4715
6204522010	1.1988	1.3980
6204522020	1.1988	1.3980
6204522030	1.1988	1.3980
6204522040	1.1988	1.3980
6204522070	1.0095	1.1773
6204522080	1.0095	1.1773
6204531000	0.4416	0.5150
6204532010	0.0631	0.0736
6204532020	0.0631	0.0736
6204533010	0.2524	0.2943
6204533020	0.2524	0.2943
6204591000	0.4416	0.5150
6204594010	0.5678	0.6622
6204594030	0.2524	0.2943
6204594060	0.2524	0.2943

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6204610510	0.0590	0.0688
6204610520	0.0590	0.0688
6204611510	0.0590	0.0688
6204611520	0.0590	0.0688
6204611530	0.0590	0.0688
6204611540	0.1180	0.1376
6204616010	0.0590	0.0688
6204616020	0.0590	0.0688
6204618010	0.0590	0.0688
6204618020	0.0590	0.0688
6204618030	0.0590	0.0688
6204618040	0.1180	0.1376
6204620300	0.8681	1.0124
6204620505	0.7077	0.8253
6204620510	0.9436	1.1004
6204620525	0.9436	1.1004
6204620550	0.9436	1.1004
6204621503	1.0616	1.2380
6204621506	1.1796	1.3756
6204621511	1.1796	1.3756
6204621521	0.9436	1.1004
6204621526	1.1796	1.3756
6204621531	1.1796	1.3756
6204621536	1.1796	1.3756
6204621541	1.1796	1.3756
6204621546	0.9436	1.1004
6204621551	0.9436	1.1004
6204621556	0.9335	1.0886
6204621561	0.9335	1.0886
6204621566	0.9335	1.0886
6204625000	0.8681	1.0124
6204626005	0.7077	0.8253
6204626010	0.9436	1.1004
6204626025	0.9436	1.1004
6204626050	0.9436	1.1004
6204627000	1.1796	1.3756
6204628003	1.0616	1.2380
6204628006	1.1796	1.3756
6204628011	1.1796	1.3756
6204628014	0.9436	1.1004
6204628018	0.9436	1.1004
6204628026	1.1796	1.3756
6204628031	1.1796	1.3756
6204628036	1.1796	1.3756
6204628041	1.1796	1.3756
6204628046	0.9436	1.1004
6204628051	0.9436	1.1004
6204628056	0.9335	1.0886
6204628061	0.9335	1.0886
6204628066	0.9335	1.0886
6204630100	0.2019	0.2355
6204630200	0.1180	0.1376
6204630305	0.1180	0.1376
6204630310	0.2359	0.2751
6204630325	0.2359	0.2751
6204630350	0.2359	0.2751
6204630810	0.0590	0.0688
6204630820	0.0590	0.0688
6204630910	0.0603	0.0703
6204630990	0.0603	0.0703
6204631110	0.2412	0.2813
6204631125	0.2412	0.2813
6204631130	0.2412	0.2813
6204631132	0.2309	0.2693
6204631135	0.2309	0.2693
6204631140	0.2309	0.2693
6204635000	0.2019	0.2355
6204635500	0.1180	0.1376

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6204636005	0.1180	0.1376
6204636010	0.2359	0.2751
6204636025	0.2359	0.2751
6204636050	0.2359	0.2751
6204636500	0.4718	0.5502
6204637010	0.0590	0.0688
6204637020	0.0590	0.0688
6204637510	0.0603	0.0703
6204637590	0.0603	0.0703
6204639009	0.2412	0.2813
6204639011	0.2412	0.2813
6204639025	0.2412	0.2813
6204639030	0.2412	0.2813
6204639032	0.2309	0.2693
6204639035	0.2309	0.2693
6204639040	0.2309	0.2693
6204690105	0.1180	0.1376
6204690110	0.2359	0.2751
6204690125	0.2359	0.2751
6204690150	0.2359	0.2751
6204690210	0.0590	0.0688
6204690220	0.0590	0.0688
6204690230	0.0590	0.0688
6204690310	0.2359	0.2751
6204690320	0.2359	0.2751
6204690330	0.2359	0.2751
6204690340	0.2309	0.2693
6204690350	0.2309	0.2693
6204690360	0.2309	0.2693
6204690510	0.5308	0.6190
6204690530	0.2359	0.2751
6204690570	0.3539	0.4127
6204690610	0.5308	0.6190
6204690630	0.2359	0.2751
6204690644	0.2359	0.2751
6204690646	0.2359	0.2751
6204690650	0.3539	0.4127
6204691505	0.1180	0.1376
6204691510	0.2359	0.2751
6204691525	0.2359	0.2751
6204691550	0.2359	0.2751
6204692210	0.0590	0.0688
6204692220	0.0590	0.0688
6204692230	0.0590	0.0688
6204692810	0.2359	0.2751
6204692820	0.2359	0.2751
6204692830	0.2359	0.2751
6204692840	0.2309	0.2693
6204692850	0.2309	0.2693
6204692860	0.2309	0.2693
6204696510	0.5308	0.6190
6204696530	0.2359	0.2751
6204696570	0.3539	0.4127
6204698010	0.5308	0.6190
6204698030	0.2359	0.2751
6204698044	0.2359	0.2751
6204698046	0.2359	0.2751
6204698050	0.3539	0.4127
6205201000	1.1796	1.3756
6205202003	0.9436	1.1004
6205202016	0.9436	1.1004
6205202021	0.9436	1.1004
6205202026	0.9436	1.1004
6205202031	0.9436	1.1004
6205202036	1.0616	1.2380
6205202041	1.0616	1.2380
6205202044	1.0616	1.2380
6205202047	0.9436	1.1004

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6205202051	0.9436	1.1004
6205202056	0.9436	1.1004
6205202061	0.9436	1.1004
6205202063	0.9436	1.1004
6205202067	0.9436	1.1004
6205202071	0.9436	1.1004
6205202076	0.9436	1.1004
6205301000	0.4128	0.4814
6205302010	0.2949	0.3439
6205302020	0.2949	0.3439
6205302030	0.2949	0.3439
6205302040	0.2949	0.3439
6205302050	0.2949	0.3439
6205302055	0.2949	0.3439
6205302060	0.2949	0.3439
6205302071	0.2949	0.3439
6205302073	0.2949	0.3439
6205302075	0.2949	0.3439
6205302080	0.2949	0.3439
6205900710	0.1180	0.1376
6205900720	0.1180	0.1376
6205901000	0.2359	0.2751
6205903010	0.5308	0.6190
6205903030	0.2359	0.2751
6205903050	0.1769	0.2063
6205904010	0.5308	0.6190
6205904030	0.2359	0.2751
6205904040	0.2359	0.2751
6206100010	0.5308	0.6190
6206100030	0.2359	0.2751
6206100040	0.1180	0.1376
6206100050	0.2359	0.2751
6206203010	0.0590	0.0688
6206203020	0.0590	0.0688
6206301000	1.1796	1.3756
6206302000	0.6488	0.7566
6206303003	0.9436	1.1004
6206303011	0.9436	1.1004
6206303021	0.9436	1.1004
6206303031	0.9436	1.1004
6206303043	0.9436	1.1004
6206303045	0.9436	1.1004
6206303051	0.9436	1.1004
6206303061	0.9436	1.1004
6206401000	0.4128	0.4814
6206403010	0.2949	0.3439
6206403020	0.2949	0.3439
6206403025	0.2949	0.3439
6206403033	0.2949	0.3439
6206403035	0.2949	0.3439
6206403040	0.2949	0.3439
6206403050	0.2949	0.3439
6206900010	0.5308	0.6190
6206900030	0.2359	0.2751
6206900040	0.1769	0.2063
6207110000	1.0281	1.1990
6207199010	0.3427	0.3997
6207199030	0.4569	0.5328
6207210010	1.0502	1.2247
6207210020	1.0502	1.2247
6207210030	1.0502	1.2247
6207210040	1.0502	1.2247
6207220000	0.3501	0.4083
6207291000	0.1167	0.1361
6207299030	0.1167	0.1361
6207911000	1.0852	1.2656
6207913010	1.0852	1.2656
6207913020	1.0852	1.2656

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6207997520	0.2412	0.2813
6207998510	0.2412	0.2813
6207998520	0.2412	0.2813
6208110000	0.2412	0.2813
6208192000	1.0852	1.2656
6208195000	0.1206	0.1406
6208199000	0.2412	0.2813
6208210010	1.0026	1.1692
6208210020	1.0026	1.1692
6208210030	1.0026	1.1692
6208220000	0.1180	0.1376
6208299030	0.2359	0.2751
6208911010	1.0852	1.2656
6208911020	1.0852	1.2656
6208913010	1.0852	1.2656
6208913020	1.0852	1.2656
6208920010	0.1206	0.1406
6208920020	0.1206	0.1406
6208920030	0.1206	0.1406
6208920040	0.1206	0.1406
6208992010	0.0603	0.0703
6208992020	0.0603	0.0703
6208995010	0.2412	0.2813
6208995020	0.2412	0.2813
6208998010	0.2412	0.2813
6208998020	0.2412	0.2813
6209201000	1.0967	1.2790
6209202000	1.0390	1.2117
6209203000	0.9236	1.0771
6209205030	0.9236	1.0771
6209205035	0.9236	1.0771
6209205045	0.9236	1.0771
6209205050	0.9236	1.0771
6209301000	0.2917	0.3402
6209302000	0.2917	0.3402
6209303010	0.2334	0.2722
6209303020	0.2334	0.2722
6209303030	0.2334	0.2722
6209303040	0.2334	0.2722
6209900500	0.1154	0.1346
6209901000	0.2917	0.3402
6209902000	0.2917	0.3402
6209903010	0.2917	0.3402
6209903015	0.2917	0.3402
6209903020	0.2917	0.3402
6209903030	0.2917	0.3402
6209903040	0.2917	0.3402
6210109010	0.2170	0.2531
6210109040	0.2170	0.2531
6210203000	0.0362	0.0422
6210205010	0.0844	0.0984
6210205020	0.4316	0.5033
6210205029	0.4316	0.5033
6210207000	0.1809	0.2110
6210209039	0.1110	0.1294
6210209049	0.1110	0.1294
6210303000	0.0362	0.0422
6210305010	0.0844	0.0984
6210305020	0.0863	0.1006
6210305029	0.0863	0.1006
6210307000	0.0362	0.0422
6210309020	0.4220	0.4921
6210309039	0.1480	0.1726
6210309049	0.1480	0.1726
6210401500	0.0370	0.0431
6210402531	0.0863	0.1006
6210402539	0.0863	0.1006
6210402540	0.4316	0.5033

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6210402550	0.4316	0.5033
6210402800	0.1110	0.1294
6210402933	0.1110	0.1294
6210402945	0.1110	0.1294
6210402960	0.1110	0.1294
6210403500	0.0370	0.0431
6210405531	0.0863	0.1006
6210405539	0.0863	0.1006
6210405540	0.4316	0.5033
6210405550	0.4316	0.5033
6210407500	0.1110	0.1294
6210408033	0.1110	0.1294
6210408045	0.1110	0.1294
6210408060	0.1110	0.1294
6210500300	0.0370	0.0431
6210500531	0.0863	0.1006
6210500539	0.0863	0.1006
6210500540	0.0863	0.1006
6210500555	0.0863	0.1006
6210501200	0.4316	0.5033
6210502260	0.1480	0.1726
6210502270	0.1480	0.1726
6210502290	0.1480	0.1726
6210503500	0.0370	0.0431
6210505531	0.0863	0.1006
6210505539	0.0863	0.1006
6210505540	0.0863	0.1006
6210505555	0.0863	0.1006
6210507500	0.4316	0.5033
6210508060	0.1480	0.1726
6210508070	0.1480	0.1726
6210508090	0.1480	0.1726
6211111010	0.1206	0.1406
6211111020	0.1206	0.1406
6211118010	1.0852	1.2656
6211118020	1.0852	1.2656
6211118040	0.2412	0.2813
6211121010	0.0603	0.0703
6211121020	0.0603	0.0703
6211128010	1.0852	1.2656
6211128020	1.0852	1.2656
6211128030	0.6029	0.7031
6211200410	0.7717	0.9000
6211200420	0.0965	0.1125
6211200430	0.7717	0.9000
6211200440	0.0965	0.1125
6211200810	0.3858	0.4499
6211200820	0.3858	0.4499
6211201510	0.7615	0.8881
6211201515	0.2343	0.2732
6211201520	0.6443	0.7514
6211201525	0.2929	0.3416
6211201530	0.7615	0.8881
6211201535	0.3515	0.4099
6211201540	0.7615	0.8881
6211201545	0.2929	0.3416
6211201550	0.7615	0.8881
6211201555	0.4100	0.4781
6211201560	0.7615	0.8881
6211201565	0.2343	0.2732
6211202400	0.1233	0.1438
6211202810	0.8016	0.9348
6211202820	0.2466	0.2876
6211202830	0.3083	0.3595
6211203400	0.1233	0.1438
6211203810	0.8016	0.9348
6211203820	0.2466	0.2876
6211203830	0.3083	0.3595

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6211204400	0.1233	0.1438
6211204815	0.8016	0.9348
6211204835	0.2466	0.2876
6211204860	0.3083	0.3595
6211205400	0.1233	0.1438
6211205810	0.8016	0.9348
6211205820	0.2466	0.2876
6211205830	0.3083	0.3595
6211206400	0.1233	0.1438
6211206810	0.8016	0.9348
6211206820	0.2466	0.2876
6211206830	0.3083	0.3595
6211207400	0.1233	0.1438
6211207810	0.9249	1.0786
6211207820	0.2466	0.2876
6211207830	0.3083	0.3595
6211325003	0.6412	0.7478
6211325003	0.6412	0.7478
6211325007	0.8016	0.9348
6211325007	0.8016	0.9348
6211325010	0.9865	1.1505
6211325015	0.9865	1.1505
6211325025	0.9865	1.1505
6211325030	0.9249	1.0786
6211325040	0.9249	1.0786
6211325050	0.9249	1.0786
6211325060	0.9249	1.0786
6211325070	0.9249	1.0786
6211325075	0.9249	1.0786
6211325081	0.9249	1.0786
6211329003	0.6412	0.7478
6211329007	0.8016	0.9348
6211329010	0.9865	1.1505
6211329015	0.9865	1.1505
6211329025	0.9865	1.1505
6211329030	0.9249	1.0786
6211329040	0.9249	1.0786
6211329050	0.9249	1.0786
6211329060	0.9249	1.0786
6211329070	0.9249	1.0786
6211329075	0.9249	1.0786
6211329081	0.9249	1.0786
6211335003	0.0987	0.1151
6211335007	0.1233	0.1438
6211335010	0.3083	0.3595
6211335015	0.3083	0.3595
6211335017	0.3083	0.3595
6211335025	0.3700	0.4315
6211335030	0.3700	0.4315
6211335035	0.3700	0.4315
6211335040	0.3700	0.4315
6211335054	0.3700	0.4315
6211335058	0.3700	0.4315
6211335061	0.3700	0.4315
6211339003	0.0987	0.1151
6211339007	0.1233	0.1438
6211339010	0.3083	0.3595
6211339015	0.3083	0.3595
6211339017	0.3083	0.3595
6211339025	0.3700	0.4315
6211339030	0.3700	0.4315
6211339035	0.3700	0.4315
6211339042	0.3700	0.4315
6211339044	0.3700	0.4315
6211339054	0.3700	0.4315
6211339058	0.3700	0.4315
6211339061	0.3700	0.4315
6211390310	0.1233	0.1438

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6211390320	0.1233	0.1438
6211390330	0.1233	0.1438
6211390340	0.1233	0.1438
6211390345	0.1233	0.1438
6211390351	0.1233	0.1438
6211391510	0.2466	0.2876
6211391520	0.2466	0.2876
6211391530	0.2466	0.2876
6211391540	0.2466	0.2876
6211391550	0.2466	0.2876
6211391560	0.2466	0.2876
6211391570	0.2466	0.2876
6211391590	0.2466	0.2876
6211393010	0.1233	0.1438
6211393020	0.1233	0.1438
6211393030	0.1233	0.1438
6211393040	0.1233	0.1438
6211393045	0.1233	0.1438
6211393051	0.1233	0.1438
6211398010	0.2466	0.2876
6211398020	0.2466	0.2876
6211398030	0.2466	0.2876
6211398040	0.2466	0.2876
6211398050	0.2466	0.2876
6211398060	0.2466	0.2876
6211398070	0.2466	0.2876
6211398090	0.2466	0.2876
6211420503	0.6412	0.7478
6211420507	0.8016	0.9348
6211420510	0.9865	1.1505
6211420520	0.9865	1.1505
6211420525	1.1099	1.2944
6211420530	0.8632	1.0067
6211420540	0.9865	1.1505
6211420554	1.1099	1.2944
6211420556	1.1099	1.2944
6211420560	0.9865	1.1505
6211420570	1.1099	1.2944
6211420575	1.1099	1.2944
6211420581	1.1099	1.2944
6211421003	0.6412	0.7478
6211421007	0.8016	0.9348
6211421010	0.9865	1.1505
6211421020	0.9865	1.1505
6211421025	1.1099	1.2944
6211421030	0.8632	1.0067
6211421040	0.9865	1.1505
6211421054	1.1099	1.2944
6211421056	1.1099	1.2944
6211421060	0.9865	1.1505
6211421070	1.1099	1.2944
6211421075	1.1099	1.2944
6211421082	1.1099	1.2944
6211421088	1.1099	1.2944
6211421092	1.1099	1.2944
6211430503	0.0987	0.1151
6211430507	0.1233	0.1438
6211430510	0.2466	0.2876
6211430520	0.2466	0.2876
6211430530	0.2466	0.2876
6211430540	0.2466	0.2876
6211430550	0.2466	0.2876
6211430560	0.2466	0.2876
6211430564	0.3083	0.3595
6211430566	0.2466	0.2876
6211430574	0.3083	0.3595
6211430576	0.3700	0.4315
6211430578	0.3700	0.4315

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6211430591	0.2466	0.2876
6211431003	0.0987	0.1151
6211431007	0.1233	0.1438
6211431010	0.2466	0.2876
6211431020	0.2466	0.2876
6211431030	0.2466	0.2876
6211431040	0.2466	0.2876
6211431050	0.2466	0.2876
6211431059	0.2466	0.2876
6211431062	0.2466	0.2876
6211431064	0.3083	0.3595
6211431066	0.2466	0.2876
6211431074	0.3083	0.3595
6211431076	0.3700	0.4315
6211431078	0.3700	0.4315
6211431082	0.2466	0.2876
6211431088	0.2466	0.2876
6211431092	0.2466	0.2876
6211491520	0.0617	0.0719
6211491530	0.1233	0.1438
6211491540	0.0617	0.0719
6211491550	0.0617	0.0719
6211491555	0.0617	0.0719
6211491561	0.0617	0.0719
6211492510	0.2466	0.2876
6211492520	0.2466	0.2876
6211492530	0.2466	0.2876
6211492540	0.2466	0.2876
6211492550	0.2466	0.2876
6211492560	0.2466	0.2876
6211492570	0.2466	0.2876
6211492580	0.2466	0.2876
6211492590	0.2466	0.2876
6211496020	0.0617	0.0719
6211496030	0.1233	0.1438
6211496040	0.0617	0.0719
6211496050	0.0617	0.0719
6211496055	0.0617	0.0719
6211498010	0.2466	0.2876
6211498020	0.2466	0.2876
6211498030	0.2466	0.2876
6211498040	0.2466	0.2876
6211498050	0.2466	0.2876
6211498060	0.2466	0.2876
6211498070	0.2466	0.2876
6211498080	0.2466	0.2876
6211498090	0.2466	0.2876
6212105010	0.9138	1.0657
6212105020	0.2285	0.2665
6212105030	0.2285	0.2665
6212109010	0.9138	1.0657
6212109020	0.2285	0.2665
6212109040	0.2285	0.2665
6212200010	0.6854	0.7993
6212200020	0.2856	0.3331
6212200030	0.1142	0.1332
6212300010	0.6854	0.7993
6212300020	0.2856	0.3331
6212300030	0.1142	0.1332
6212900010	0.1828	0.2132
6212900020	0.1828	0.2132
6212900030	0.1828	0.2132
6212900050	0.0914	0.1066
6212900090	0.4112	0.4795
6213201000	1.1187	1.3046
6213202000	1.0069	1.1742
6213900700	0.4475	0.5219
6213901000	0.4475	0.5219

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6213902000	0.3356	0.3914
6214300000	0.1142	0.1332
6214400000	0.1142	0.1332
6214900010	0.8567	0.9991
6214900090	0.2285	0.2665
6215100025	0.1142	0.1332
6215200000	0.1142	0.1332
6215900015	1.0281	1.1990
6216000800	0.0685	0.0799
6216001300	0.3427	0.3997
6216001720	0.6397	0.7460
6216001730	0.1599	0.1865
6216001900	0.3427	0.3997
6216002110	0.5780	0.6741
6216002120	0.2477	0.2889
6216002410	0.6605	0.7703
6216002425	0.1651	0.1925
6216002600	0.1651	0.1925
6216002910	0.6605	0.7703
6216002925	0.1651	0.1925
6216003100	0.1651	0.1925
6216003300	0.5898	0.6878
6216003500	0.5898	0.6878
6216003800	1.1796	1.3756
6216004100	1.1796	1.3756
6217109510	0.9646	1.1249
6217109520	0.1809	0.2110
6217109530	0.2412	0.2813
6217909003	0.9646	1.1249
6217909005	0.1809	0.2110
6217909010	0.2412	0.2813
6217909025	0.9646	1.1249
6217909030	0.1809	0.2110
6217909035	0.2412	0.2813
6217909050	0.9646	1.1249
6217909055	0.1809	0.2110
6217909060	0.2412	0.2813
6217909075	0.9646	1.1249
6217909080	0.1809	0.2110
6217909085	0.2412	0.2813
6301300010	0.8305	0.9685
6301300020	0.8305	0.9685
6301900030	0.2215	0.2583
6302100005	1.1073	1.2913
6302100008	1.1073	1.2913
6302100015	1.1073	1.2913
6302213010	1.1073	1.2913
6302213020	1.1073	1.2913
6302213030	1.1073	1.2913
6302213040	1.1073	1.2913
6302213050	1.1073	1.2913
6302215010	0.7751	0.9039
6302215020	0.7751	0.9039
6302215030	0.7751	0.9039
6302215040	0.7751	0.9039
6302215050	0.7751	0.9039
6302217010	1.1073	1.2913
6302217020	1.1073	1.2913
6302217030	1.1073	1.2913
6302217040	1.1073	1.2913
6302217050	1.1073	1.2913
6302219010	0.7751	0.9039
6302219020	0.7751	0.9039
6302219030	0.7751	0.9039
6302219040	0.7751	0.9039
6302219050	0.7751	0.9039
6302221010	0.5537	0.6457
6302221020	0.3876	0.4520

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6302221030	0.5537	0.6457
6302221040	0.3876	0.4520
6302221050	0.3876	0.4520
6302221060	0.3876	0.4520
6302222010	0.3876	0.4520
6302222020	0.3876	0.4520
6302222030	0.3876	0.4520
6302290020	0.2215	0.2583
6302313010	1.1073	1.2913
6302313020	1.1073	1.2913
6302313030	1.1073	1.2913
6302313040	1.1073	1.2913
6302313050	1.1073	1.2913
6302315010	0.7751	0.9039
6302315020	0.7751	0.9039
6302315030	0.7751	0.9039
6302315040	0.7751	0.9039
6302315050	0.7751	0.9039
6302317010	1.1073	1.2913
6302317020	1.1073	1.2913
6302317030	1.1073	1.2913
6302317040	1.1073	1.2913
6302317050	1.1073	1.2913
6302319010	0.7751	0.9039
6302319020	0.7751	0.9039
6302319030	0.7751	0.9039
6302319040	0.7751	0.9039
6302319050	0.7751	0.9039
6302321010	0.5537	0.6457
6302321020	0.3876	0.4520
6302321030	0.5537	0.6457
6302321040	0.3876	0.4520
6302321050	0.3876	0.4520
6302321060	0.3876	0.4520
6302322010	0.5537	0.6457
6302322020	0.3876	0.4520
6302322030	0.5537	0.6457
6302322040	0.3876	0.4520
6302322050	0.3876	0.4520
6302322060	0.3876	0.4520
6302390030	0.2215	0.2583
6302402010	0.9412	1.0976
6302511000	0.5537	0.6457
6302512000	0.8305	0.9685
6302513000	0.5537	0.6457
6302514000	0.7751	0.9039
6302593020	0.5537	0.6457
6302600010	1.1073	1.2913
6302600020	0.9966	1.1622
6302600030	0.9966	1.1622
6302910005	0.9966	1.1622
6302910015	1.1073	1.2913
6302910025	0.9966	1.1622
6302910035	0.9966	1.1622
6302910045	0.9966	1.1622
6302910050	0.9966	1.1622
6302910060	0.9966	1.1622
6302931000	0.4429	0.5165
6302932000	0.4429	0.5165
6302992000	0.2215	0.2583
6303191100	0.8859	1.0331
6303910010	0.6090	0.7102
6303910020	0.6090	0.7102
6303921000	0.2768	0.3228
6303922010	0.2768	0.3228
6303922030	0.2768	0.3228
6303922050	0.2768	0.3228
6303990010	0.2768	0.3228

TABLE 2 TO PARAGRAPH (b)(3)—IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg.
6304111000	0.9966	1.1622
6304113000	0.1107	0.1291
6304190500	0.9966	1.1622
6304191000	1.1073	1.2913
6304191500	0.3876	0.4520
6304192000	0.3876	0.4520
6304193060	0.2215	0.2583
6304200020	0.8859	1.0331
6304200070	0.2215	0.2583
6304910120	0.8859	1.0331
6304910170	0.2215	0.2583
6304920000	0.8859	1.0331
6304996040	0.2215	0.2583
6505001515	1.1189	1.3049
6505001525	0.5594	0.6524
6505001540	1.1189	1.3049
6505002030	0.9412	1.0976
6505002060	0.9412	1.0976
6505002545	0.5537	0.6457
6507000000	0.3986	0.4648
9404401000	0.9966	1.1622
9404409005	0.6644	0.7748
9404409036	0.0997	0.1163
9404901030	0.2104	0.2454
9404901060	0.2104	0.2454
9404901090	0.2104	0.2454
9404908100	0.9966	1.1622
9404909605	0.6644	0.7748
9404909636	0.0997	0.1163
9619002100	0.8681	1.0124
9619002500	0.1085	0.1265
9619003100	0.9535	1.1120
9619003300	1.1545	1.3464
9619004100	0.2384	0.2780
9619004300	0.2384	0.2780
9619006100	0.8528	0.9945
9619006400	0.2437	0.2842
9619006800	0.3655	0.4262
9619007100	1.1099	1.2944
9619007400	0.2466	0.2876
9619007800	0.2466	0.2876
9619007900	0.2466	0.2876

* * * * *

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2026–12563 Filed 6–22–26; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Part 702

RIN 1240–AA20

Longshore and Harbor Workers' Compensation Act: Quality Standards for Hearing Loss Testing

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Request for information.

SUMMARY: The Longshore and Harbor Workers' Compensation Act (LHWCA) provides compensation to employees for disability or death from injury arising out of and in the course of employment. Hearing loss claims constitute a significant portion of LHWCA claims, and determining the extent of hearing loss necessarily entails evaluating medical test results. The program statutes and regulations currently reference audiograms as the primary testing method and incorporate the American Medical Association's Guides to the Evaluation of Permanent Impairment for measuring and calculating hearing impairment. The Office of Workers' Compensation Programs (OWCP) is considering updating the quality standards for hearing loss testing to better reflect current medical technology and practice, particularly the potential use of objective testing methods. This request for information seeks the public's input on the comparative reliability and validity of audiograms versus objective tests such as Auditory Brainstem Response (ABR), Auditory Steady State Response (ASSR), and Otoacoustic Emissions (OAE) and others; current standards for administering these tests; and criteria used to evaluate hearing impairment.

DATES: The Department invites written comments on the request for information from interested parties. Written comments must be received by October 22, 2026.

ADDRESSES: You may submit written comments by any of the following methods. To facilitate receipt and processing of comments, OWCP encourages interested parties to submit their comments electronically.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions on the website for submitting comments.
- *Regular Mail/Hand Delivery/Courier:* Submit comments on paper to the Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, 200 Constitution Avenue NW, Suite S3524—DLHWC–LHWCA, Washington, DC 20210. The Department's receipt of U.S. mail may be significantly delayed due to security procedures. You must take this into consideration when preparing to meet the deadline for submitting comments.

Instructions: You must include the agency name and the Regulatory Information Number (RIN) for this rulemaking in your submission. *Caution:* All comments received will be posted without change to *http://www.regulations.gov.* Please do not include any personally identifiable or confidential business information you do not want publicly disclosed.

Docket: For access to the rulemaking docket and to read background documents or comments received, go to *http://www.regulations.gov.* Although some information (*e.g.,* copyrighted material) will not be available through the website, the entire rulemaking record, including copyrighted material, will be available for inspection at OWCP. Please contact the individual named below if you would like to inspect the record.

FOR FURTHER INFORMATION CONTACT: Ryan Jansen, Acting Director, Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210.

SUPPLEMENTARY INFORMATION:

I. Background of This Rulemaking

The Longshore and Harbor Workers' Compensation Act (LHWCA), 33 U.S.C. 901–950, provides for the payment of compensation to employees for disability or death from injury arising out of and in the course of employment. Hearing loss claims represent a substantial portion of claims filed under the LHWCA. Section 8(c)(13) of the LHWCA, 33 U.S.C. 908(c)(13), specifically addresses compensation for loss of hearing and establishes that audiograms meeting certain criteria provide presumptive evidence of the amount of hearing loss sustained.

Medical testing evidence is essential to evaluating benefits entitlement in virtually every hearing loss claim. Under Section 8(c)(13)(C), an audiogram is presumptive evidence of the amount of hearing loss sustained as of the date thereof, only if: (i) such audiogram was administered by a licensed or certified audiologist or a physician who is certified in otolaryngology, (ii) such audiogram, with the report thereon, was provided to the employee at the time it was administered, and (iii) no contrary audiogram made at that time is produced.

The Department's implementing regulations are currently codified at 20 CFR 702.441. Section 702.441(d) provides that in determining the loss of hearing under the Act, evaluators shall use the criteria for measuring and calculating hearing impairment as published and modified from time-to-time by the American Medical Association in the *Guides to the Evaluation of Permanent Impairment,*

using the most currently revised edition of this publication. In addition, the audiometer used for testing must be calibrated according to current American National Standard Specifications for Audiometers. Audiometer testing procedures required by hearing conservation programs pursuant to the Occupational Safety and Health Act of 1970 should be followed (as described at 29 CFR 1910.95 and appendices).

Since the current regulations were established, medical technology and practice have evolved significantly. Objective testing methods such as Auditory Brainstem Response (ABR), Auditory Steady State Response (ASSR), Otoacoustic Emissions (OAE) and other screening have become more widely available and are used in clinical settings. These objective tests measure physiological responses to sound stimuli and do not rely on subjective patient responses, unlike traditional pure-tone audiometry (audiograms). Stakeholders have expressed interest in having the regulations updated to consider whether objective testing methods should be used in addition to traditional audiograms based on their relative reliability and validity.

OWCP is now considering updating the standards for administering hearing tests and the relative weight given to different testing methodologies. Recognizing that qualifying audiograms constitute presumptive evidence of hearing loss, OWCP seeks input on how objective testing methods may be used within this statutory framework, including to resolve discrepancies between multiple audiogram tests or as supporting or rebuttal evidence. OWCP's goal is to adopt regulations that reflect current medical technology and practice while ensuring accurate, reliable, and fair determinations of hearing loss.

II. Information Request

OWCP requests input from audiologists, otolaryngologists, medical professionals, medical associations, employees, employers, insurance carriers, trade associations, and other interested parties on the comparative reliability and validity of different hearing testing methods and current best practices for evaluating occupational hearing loss.

When responding, please:

- Address your comments to the topic and question number whenever possible. For example, you would identify your response to Question 1 as ''A.1.''
- Provide your rationale for your views.
- Provide sufficient detail in your responses to enable proper agency review and consideration. OWCP wants to fully understand your answers and any recommendations you make.
- Identify the information on which you rely. Please provide specific examples. Include applicable data, studies, or articles regarding standard professional practices, availability of technology, and costs.

OWCP invites comment in response to the specific questions posed below and encourages commenters to include any related cost and benefit data. OWCP is especially interested in issues related to the economic impact on small entities as defined by the Regulatory Flexibility Act, 5 U.S.C. 601(6).

A. Reliability and Validity of Audiograms Versus Objective Testing Methods

1. What is the comparative reliability of pure-tone audiometry (audiograms) versus objective tests (ABR, ASSR, OAE, etc.) in accurately measuring occupational hearing loss? Please provide peer-reviewed studies or data supporting your position.

2. What is the comparative validity of pure-tone audiometry versus objective tests in measuring functional hearing loss and disability? Please provide specific evidence.

3. Are objective tests (ABR, ASSR, OAE, etc.) less susceptible to invalid results due to patient effort, malingering, or exaggeration compared to audiograms? What evidence from peer-reviewed literature supports this?

4. In cases where audiogram results and objective test results differ, which testing method has been shown to more accurately reflect actual hearing loss? Please cite specific studies or clinical evidence.

5. What are the known limitations of objective testing methods (ABR, ASSR, OAE, etc.) in evaluating occupational hearing loss, particularly noise-induced hearing loss? Are there circumstances where audiograms provide more accurate or relevant information than objective tests?

6. Do objective tests measure the same aspects of hearing function as audiograms? How do the measurements correlate, and what does the peer-reviewed literature show about their relationship?

B. Clinical Use and Professional Standards for Objective Testing

7. For what purposes are objective tests (ABR, ASSR, OAE, etc.) currently used in clinical audiology practice? Are they routinely used to quantify hearing loss for disability or impairment determinations?

8. Are there other workers' compensation programs, disability determination systems, or legal jurisdictions (domestic or international) that currently use objective testing methods (ABR, ASSR, OAE, etc.) for hearing loss evaluations? If so, what has been their experience with these methods?

9. What professional standards or guidelines exist for using objective tests to evaluate occupational hearing loss? Please identify specific standards published by organizations such as the American Academy of Audiology, American Speech-Language-Hearing Association, or other recognized professional bodies.

10. How widely available are objective testing methods (ABR, ASSR, OAE, etc.) across different geographic regions and practice settings? What percentage of audiologists or otolaryngologists have access to this equipment?

11. What are the current costs of objective testing compared to traditional audiometry? Please provide specific cost data including equipment costs, per-test costs, and any other relevant economic information.

C. Test Administration Standards and Quality Control

12. If OWCP were to incorporate objective testing methods into the regulations, what specific quality standards should be required for equipment calibration, testing protocols, and interpretation? Please identify established professional standards that could be referenced.

13. What qualifications, training, or certifications should be required for personnel administering and interpreting objective tests (ABR, ASSR, OAE, etc.)?

14. Are the current audiogram administration standards referenced in 20 CFR 702.441(d) (calibration per American National Standard Specifications for Audiometers and procedures per 29 CFR 1910.95) adequate to ensure reliable results, or should additional standards be adopted?

15. What quality control measures are necessary to ensure the validity of hearing tests and prevent invalid or unreliable results?

16. Should OWCP require audiograms to be administered following a set of contralateral masking rules implemented in France and described extensively in French audiometry guidelines? Are there alternative standards OWCP should consider?

D. Weighting and Use of Different Testing Methods

17. If both audiometric and objective testing are performed and the results differ, what criteria should be used to determine which result is more reliable? Should one type of test be given greater weight, and if so, based on what evidence? When does objective testing rebut the presumption of hearing loss based on audiometric testing?

18. Are there specific circumstances where objective testing should be required in addition to audiometry (*e.g.,* when results are inconsistent, when test validity is questioned)? What should trigger the need for additional testing?

19. Should objective tests be used as primary evidence of hearing loss, confirmatory evidence, or only in specific circumstances? What does the clinical literature support?

E. Measuring and Calculating Hearing Impairment

20. Does the current edition of the AMA *Guides to the Evaluation of Permanent Impairment* provide an appropriate methodology for calculating hearing impairment based on audiometric results? Are there specific aspects that are problematic for LHWCA hearing loss claims?

21. Can objective test results (ABR, ASSR, OAE, etc.) be meaningfully converted into the hearing impairment percentages calculated under the AMA Guides methodology? If so, how? Please provide specific methodologies with supporting evidence.

22. Are there validated alternative methods for calculating hearing impairment from objective test results? Please identify specific methodologies with peer-reviewed support.

23. The AMA Guides use specific frequencies (500, 1000, 2000, and 3000 Hz) to calculate hearing impairment. Is this appropriate for occupational noise-induced hearing loss, or should different frequencies be weighted? What does the research literature support?

24. When objective test results (ABR, ASSR) are converted to frequency-specific threshold estimates in dB HL, how closely do they correlate with audiometric thresholds in adults with occupational noise-induced hearing loss? What degree of variation is considered normal, and how should discrepancies be resolved for impairment rating purposes?

F. Economic Impact and Feasibility

25. What would be the economic impact on employers, insurance carriers, and medical providers of requiring or allowing objective testing methods? Please provide specific cost estimates.

26. What would be the economic impact of potential changes to testing standards on small entities (small employers, small medical practices)? Are there access or cost barriers that would disproportionately affect small entities?

27. What is the technological and economic feasibility of implementing updated hearing loss testing standards, including the potential use of objective testing methods?

G. OTC Hearing Aids: Technology and Capabilities

28. Should OWCP consider the appropriateness of OTC hearing aids as appropriate compensation in hearing loss cases? What should OWCP consider when evaluating OTC versus prescription hearing aids in terms of affordability, ease of use, and capabilities?

Dated: June 8, 2026.

James R. Macy,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2026–12644 Filed 6–22–26; 8:45 am]

BILLING CODE 4510–CF–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2023–0054; FRL–12607–01–R9]

Approval and Promulgation of Implementation Plans; Arizona; Revisions to the Cleaner Burning Gasoline, Winter Oxygenated Fuel, and Gasoline Set-Aside Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Arizona State Implementation Plan (SIP) submitted by the Arizona Department of Environmental Quality (ADEQ). This revision includes statutes and regulations amending the Cleaner Burning Gasoline (CBG) program, which is a control measure in the greater Phoenix metropolitan area to reduce emissions of ozone-forming pollutants, carbon monoxide (CO), and particulate matter. Additionally, this revision addresses the Winter Oxygenated Fuel program to control CO emissions in the Tucson area. Finally, this revision repeals the Arizona Gasoline Set-aside (GSA) Program, applicable to the 1971 carbon monoxide nonattainment area covering Maricopa County and a portion of Pima County. The EPA is proposing to approve this SIP revision under the Clean Air Act (CAA or ''Act''). This SIP revision is administrative in nature. This action proposes to update the existing SIP-approved CBG program with revisions that have been adopted and implemented by the State to clarify requirements, update references, and enhance flexibility of the program, and it will not impose any additional costs or regulatory burdens. We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before July 23, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2023–0054 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.* 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: Jeffrey Buss, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone (415) 947–4152 or by email at *buss.jeffrey@epa.gov.*

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

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I. Background

Under the CAA, the EPA has promulgated national ambient air quality standards (NAAQS) for certain pervasive air pollutants. The EPA has determined that attainment and maintenance of the NAAQS concentration levels is required to protect public health (*i.e.,* the ''primary'' NAAQS) and welfare (*i.e.,* the ''secondary'' NAAQS). Under the CAA, states are required to develop and submit SIPs to implement, maintain, and enforce the NAAQS. The EPA is responsible for designating areas of the country as ''attainment,'' ''nonattainment,'' or ''unclassifiable'' for the various NAAQS. States with nonattainment areas are required to submit revisions to their SIPs that include a control strategy necessary to demonstrate how the area will attain the NAAQS. The EPA assigns each nonattainment area a classification (''Moderate'' or ''Serious'' for CO and particulate matter of ten microns or less (PM_{10}) nonattainment areas and ''Marginal,'' ''Moderate,'' ''Serious,'' ''Severe,'' or ''Extreme'' for ozone nonattainment areas), which determines the requirements that will apply to the area.

In 1978 the EPA designated Maricopa County and the Phoenix area portion of Pima County as nonattainment for the 1971 CO NAAQS.[1] In 1986, the EPA disapproved the CO plan submitted by the ADEQ.[2] In 1988, in response to a lawsuit and court order, the EPA proposed a federal implementation plan (FIP) that required the use of oxygenated gasoline during the winter months in the Phoenix area, among other CO control measures.[3] Following the EPA's proposed FIP, ADEQ submitted additional measures to control CO in the Phoenix area, including an oxygenated gasoline requirement from September 30 through March 31 of each year, a trip reduction program applicable in portions of Pima County, and the GSA program. The EPA approved ADEQ's submittal into the SIP and withdrew its proposed FIP.[4]

Under the CAA Amendments of 1990, the Phoenix area was classified as a Moderate nonattainment area for both ozone and PM_{10} and a Marginal nonattainment area for CO. In 1996, the Phoenix area was reclassified as a Moderate nonattainment area for CO[5] and as a Serious nonattainment area for PM_{10}.[6] Additionally, the Phoenix area was classified as a Moderate nonattainment area for ozone[7] and later reclassified as a Serious nonattainment area for the 1-hour ozone standards.[8]

CAA section 211(k) requires the use of ''reformulated gasoline'' (RFG) in nine geographic areas of the United States with the worst ozone pollution at the time of the 1990 CAA Amendments.[9] RFG is gasoline that meets the requirements of 40 CFR 1090 to reduce emissions of ozone-forming pollutants. States with Marginal, Moderate, Serious, or Severe ozone nonattainment areas are permitted to opt in to the RFG program requirements by application to the EPA.[10]

In 1997, the State of Arizona opted into the RFG program for the Phoenix area.[11] Later that year, the State submitted a petition to opt out of the program to adopt a more stringent state fuels program, the CBG program. The EPA approved the State's interim CBG program as a revision to the Arizona SIP for the purpose of reducing both ozone and PM_{10} in February 1998,[12] and we approved the State's opt-out petition in August 1998.[13]

Arizona later extended the CBG program requirements to a larger geographic area referred to as ''Area A''[14] and made other revisions to enact the requirements as a permanent program. The EPA approved the State's revised, permanent CBG program in 2004.[15] In addition to its use as a control measure for ozone and PM_{10}, the permanent CBG program was also approved as a CO control measure.[16]

In addition to the CBG program, Arizona adopted a Winter Oxygenated Fuel program in Tucson and adjacent areas in Pima County known as ''Area B.''[17] The Winter Oxygenated Fuels program requires gasoline to contain a minimum oxygen content of 1.8 percent by weight from September 30 through March 31 of each year. This measure was enacted in connection with the approval of the 1996 CO limited maintenance plan for the Tucson Air Planning Area (as updated August 1997). The EPA approved this requirement into the SIP in 2000[18] and as part of the area's CO maintenance plan in 2008.[19]

II. The State's Submittal

A. What did the State submit?

The statutes and rules included in this SIP submittal include revisions to the State's CBG program and GSA program. These revisions were adopted by the Arizona State Legislature and the Weights and Measures Services Division (WMSD) of the Arizona Department of Agriculture and submitted by ADEQ to the EPA on June 17, 2021.[20] Supplemental information was submitted in 2025.[21] ADEQ is the governor's designee for submitting official revisions of the Arizona SIP to the EPA. Table 1 below identifies the

[1] *See* 53 FR 17378.

[2] 51 FR 33746 (September 23, 1986).

[3] 53 FR 17378 (May 16, 1998).

[4] 53 FR 30224 (August 10, 1988).

[5] 61 FR 39343 (July 29, 1996).

[6] 61 FR 21372 (May 10, 1996).

[7] 56 FR 56694 (November 6, 1991).

[8] 62 FR 60001 (November 6, 1997).

[9] 42 U.S.C. 7545(k)(1)(A), (10)(D).

[10] 42 U.S.C. 7545(k)(6)(A).

[11] 62 FR 30260 (June 3, 1997).

[12] 63 FR 6653 (February 10, 1998).

[13] 63 FR 43046 (August 11, 1998).

[14] ''Area A'' is defined in Arizona Revised Statutes (ARS) section 49–541 and includes all of the Phoenix 1-hour ozone nonattainment area plus additional areas in Maricopa County to the north, east, and west, as well as small portions of Yavapai County and Pinal County. Area A includes most of the Phoenix-Mesa nonattainment area for the 1997 8-hour ozone standards and other surrounding areas.

[15] 69 FR 10161 (March 4, 2004).

[16] Id. at 10163.

[17] ''Area B'' is defined in ARS section 49–541 and includes the area delineated in Pima county as township 11 and 12 south, range 12 through 14 east; township 13 through 15 south, range 11 through 16 east; township 16 south, range 12 through 16 east, excluding any portion of the Coronado national forest and the Saguaro national park.

[18] 65 FR 36353 (June 8, 2000) (corrected at 65 FR 50651 (August 21, 2000)) and 69 FR 12802 (March 18, 2004).

[19] 74 FR 67819 (December 21, 2009).

[20] Letter dated June 17, 2021, from Daniel Czecholinski, Director, Air Quality Division, ADEQ, to Deborah Jordan, Acting Regional Administrator, U.S. Environmental Protection Agency Region 9 (submitted electronically June 17, 2021).

[21] The EPA received multiple submissions from Arizona, which included the initial 2021 submittal and updates in April, June, and July 2025. As described further below, the State's submittal also includes materials related to interim changes to statutes and rules previously submitted in 2013 and 2014. The EPA has not acted on those previous submittals, which are superseded by the current submittal. Material related to the interim changes is not submitted for the EPA's approval. See ADEQ, SIP Revision: 2013–2020 Arizona Cleaner Burning Gasoline Program Update and the Removal of the Gasoline Set-aside Program from the Arizona SIP (Release date: June 17, 2021) (''Staff Report''), Appendix D: Previously Submitted Plans (Not For Approval).

statutes and rules reviewed in this proposed rule for approval into and/or removal from the Arizona SIP, with the dates that they became effective locally and the dates that they were submitted by ADEQ.

TABLE 1—SUBMITTED STATUTES AND RULES PROPOSED FOR APPROVAL INTO SIP

Agency	Rule No.	Rule title	State effective date	Submitted
State of Arizona	ARS 3–3401 (1), (2), (4), (17), (19), (20), (22), (24), (27), (28), (29), (32).	Definitions	07/01/16	06/17/21
State of Arizona	ARS 3–3414	Powers and duties; definition	08/03/18	06/17/21
State of Arizona	ARS 3–3415	Enforcement powers of the associate director, agents and inspectors.	07/01/16	06/17/21
State of Arizona	ARS 3–3433	Standards for motor fuel; exceptions.	07/01/16	06/17/21
State of Arizona	ARS 3–3473	Violations; classification; jurisdiction.	07/01/16	06/17/21
State of Arizona	ARS 3–3475	Civil penalties; hearing	07/01/16	06/17/21
State of Arizona	ARS 3–3491	Standards for oxygenated fuel; volatility; exceptions.	08/09/17	06/17/21
State of Arizona	ARS 3–3492	Area A; sale of gasoline; oxygen content.	08/09/17	06/17/21
State of Arizona	ARS 3–3493	Area A; fuel reformulation; rules	08/09/17	06/17/21
State of Arizona	ARS 3–3495	Area B; sale of gasoline; oxygen content.	08/06/16	06/17/21
WMSD	AAC R3–7–101	Definitions	11/10/18	06/17/21
WMSD	AAC R3–7–101	Definitions	11/10/18	06/17/21
WMSD	AAC R3–7–702 (A)(1)–(13), (A)(15).	Material Incorporated by Reference.	11/10/18	07/08/25
WMSD	AAC R3–7–708	Gasoline Oxygenate Blends	10/02/17	07/08/25
WMSD	AAC R3–7–716	Sampling and Access to Records	11/10/18	06/17/21
WMSD	AAC R3–7–749	Definitions Applicable to Arizona CBG and Arizona Reformulated Blendstock for Oxygenate Blending (AZRBOB).	11/10/18	06/17/21
WMSD	AAC R3–7–750	Registration Relating to Arizona CBG or AZRBOB.	10/02/17	06/17/21
WMSD	AAC R3–7–751	Arizona CBG Requirements	11/10/18	06/17/21
WMSD	AAC R3–7–752	General Requirements for Registered Suppliers.	11/10/18	06/17/21
WMSD	AAC R3–7–753	General Requirements for Pipelines and Third-party Terminals.	10/02/17	06/17/21
WMSD	AAC R3–7–754	Downstream Blending Exceptions for Transmix.	10/02/17	06/17/21
WMSD	AAC R3–7–755	Additional Requirements for AZRBOB and Downstream Oxygenate Blending.	11/10/18	06/17/21
WMSD	AAC R3–7–756	Downstream Blending of Arizona CBG with Nonoxygenate Blendstocks.	10/2/17	06/17/21
WMSD	AAC R3–7–757	Product Transfer Documentation; Records Retention.	11/10/18	06/17/21
WMSD	AAC R3–7–759	Testing Methodologies	10/2/17	06/17/21
WMSD	AAC R3–7–760	Compliance Surveys	11/10/18	06/17/21
WMSD	AAC R3–7–761	Liability for Noncompliant Arizona CBG or AZRBOB.	11/10/18	06/17/21
WMSD	AAC R20–2–762	Penalties	10/02/17	06/17/21
WMSD	AAC R3–7 Table A	Test Methods for Arizona CBG and AZRBOB.	10/02/17	06/17/21
WMSD	AAC Title 3, Chapter 7, Article 7, Table 1.	Type 1 Arizona CBG Standards	11/10/18	06/17/21
WMSD	AAC Title 3, Chapter 7, Article 7, Table 2.	Type 2 Arizona CBG Standards	11/10/18	06/17/21

CAA sections 110(a)(1), 110(a)(2), and 110(l) require a state to provide reasonable public notice and opportunity for public hearing prior to the adoption and submittal of a SIP or SIP revision. To meet this requirement, every SIP submittal should include evidence that adequate public notice was given and that a public hearing (if requested) was held consistent with the EPA's implementing regulations in 40 CFR 51.102.

Attachment A of the ADEQ submittal documents the public process followed by ADEQ in developing, adopting, and submitting this SIP revision. On May 8 and 9, 2021, ADEQ published a notice, in a newspaper of general circulation in

the Phoenix area, of a public hearing to be held on June 8, 2021, and the availability of the draft version for public review and comment. ADEQ conducted the public hearing on June 8, 2021, and received no comments on the draft SIP revision. ADEQ subsequently adopted and submitted the SIP revision to the EPA by a letter dated June 17, 2021. ADEQ has therefore satisfied the applicable statutory and regulatory procedural requirements for adoption and submittal of this SIP revision.

On December 17, 2021, the submittal for the statutes and rules submitted on June 17, 2021, was deemed by operation of law to meet the completeness criteria in 40 CFR part 51, Appendix V, which must be met before formal EPA review.

B. Are there other versions of these statutes and rules?

Most of the submitted statutes and rules will supersede or replace previously approved versions in the Arizona SIP. See Table 2 below for the statutes and rules that are superseded by approval of the statutes and rules covered in this action and the dates on which the previous versions were approved by the EPA. Table 2 also lists the GSA statutes that are being removed from the SIP without replacement, along with the dates that they were approved by the EPA. The CBG statutes and rules were renumbered in 2016 to reflect the transfer of the Arizona Department of Weights and Measures into the WMSD within the Arizona Department of Agriculture, and other rule provisions were revised for clarification or stylistic purposes. The Technical Support Document (TSD) for this action includes additional information regarding statutes and rules that are replaced by new provisions included in this submittal.

TABLE 2—EXISTING SIP STATUTES AND RULES PROPOSED FOR REMOVAL

Statute or rule No.	Title	State effective date	SIP approval [a]
ARS 28–2701	Definitions	06/28/88	53 FR 30224 (August 10, 1988), later vacated and restored at 56 FR 3219 (January 29, 1991).
ARS 28–2702	Department Survey	06/28/88	53 FR 30224 (August 10, 1988), later vacated and restored at 56 FR 3219 (January 29, 1991).
ARS 28–2703	Determination of Shortage; Declaration	06/28/88	53 FR 30224 (August 10, 1988), later vacated and restored at 56 FR 3219 (January 29, 1991).
ARS 28–2704	State Set-aside Volume	06/28/88	53 FR 30224 (August 10, 1988), later vacated and restored at 56 FR 3219 (January 29, 1991).
ARS 28–2705	Assignment of Set-aside	06/28/88	53 FR 30224 (August 10, 1988), later vacated and restored at 56 FR 3219 (January 29, 1991).
ARS 28–2706	Price	06/28/88	56 FR 3219 (January 29, 1991).
ARS 28–2707	Application	06/28/88	56 FR 3219 (January 29, 1991).
ARS 28–2708	Appeal	06/28/88	56 FR 3219 (January 29, 1991).
ARS 41–2051 (6), (10), (11), (12), (13)	Definitions [“Certification,” “Department,” “Diesel fuel,” “Director,” and “E85”].	09/26/08	77 FR 35279 (June 13, 2012).
ARS 41–2065	Powers and Duties	06/11/91	57 FR 8268 (March 9, 1992).
ARS 41–2066	Enforcement powers of the director and inspectors.	10/25/82	53 FR 30224 (August 10, 1988); vacated and restored at 56 FR 3219 (January 29, 1991).
ARS 41–2066 (A)(2)	Enforcement powers of the director and inspectors.	04/20/01	69 FR 10161 (March 4, 2004).
ARS 41–2083	Standards for Motor Fuel; Exceptions	7/18/96	65 FR 36353 (June 8, 2000); corrected 69 FR 12802 (March 18, 2004).
ARS 41–2113 (B)(4)	Violation; Classification; Jurisdiction	08/21/98	69 FR 10161 (March 4, 2004).
ARS 41–2115	Civil Penalties	07/18/00	69 FR 10161 (March 4, 2004).
ARS 41–2121	Definitions	05/18/99	65 FR 36353 (June 8, 2000).
ARS 41–2121 (5)	Definitions [“Gasoline”]	09/19/07	77 FR 35279 (June 13, 2012).
ARS 41–2122	Standards for Oxygenated Fuel; Volatility Exemptions.	07/18/96	65 FR 36353 (June 8, 2000); corrected 69 FR 12802 (March 18, 2004).
ARS 41–2123	Area A; sale of gasoline; oxygen content	08/06/99	69 FR 10161 (March 4, 2004).
ARS 41–2124	Area A; Fuel Reformulation; Rules	07/18/00	69 FR 10161 (March 4, 2004).
ARS 41–2125	Area B; Sale of Gasoline; Oxygen Content.	07/18/96	65 FR 36353 (June 8, 2000); corrected 69 FR 12802 (March 18, 2004).
AAC R20–2–101	Definitions (Administration and Procedures).	06/05/04	77 FR 35279 (June 13, 2012).
AAC R20–2–701	Definitions (Motor Fuels and Petroleum Products).	02/09/01	69 FR 10161 (March 4, 2004).
AAC R20–2–716	Sampling and Access to Records	10/18/99	69 FR 10161 (March 4, 2004).
AAC R20–2–750	Registration Relating to Arizona CBG or	09/22/99	69 FR 10161 (March 4, 2004).
AAC R20–2–751	Arizona CBG Requirements	02/09/01	69 FR 10161 (March 4, 2004).
AAC R20–2–752	General Requirements for Registered Suppliers.	09/22/99	69 FR 10161 (March 4, 2004).
AAC R20–2–753	General Requirements for Pipelines and Third-party Terminals.	09/22/99	69 FR 10161 (March 4, 2004).
AAC R20–2–754	Downstream Blending Exceptions for Transmix.	09/22/99	69 FR 10161 (March 4, 2004).

TABLE 2—EXISTING SIP STATUTES AND RULES PROPOSED FOR REMOVAL—Continued

Statute or rule No.	Title	State effective date	SIP approval [a]
AAC R20–2–755	Additional Requirements for AZRBOB and Downstream Oxygenate.	09/22/99	69 FR 10161 (March 4, 2004).
AAC R20–2–756	Downstream Blending of Arizona CBG with Non-oxygenate Blend-stocks.	09/22/99	69 FR 10161 (March 4, 2004).
AAC R20–2–757	Product Transfer Documentation;	09/22/99	69 FR 10161 (March 4, 2004).
AAC R20–2–758	Adoption of Fuel Certification Models	09/22/99	69 FR 10161 (March 4, 2004).
AAC R20–2–759	Testing Methodologies	02/09/01	69 FR 10161 (March 4, 2004).

C. What is the purpose of the submitted statutes and rules?

The statutes and rules listed above establish Arizona's CBG program at the time ADEQ submitted this SIP revision. The submitted revisions reflect multiple updates to the program, including the following: updates to incorporate the most current standards adopted by ASTM International for gasoline; revisions to allow the use of isobutanol as a fuel additive; allowance of the use of the California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB) Model [22] as an alternative testing method; changes to Reid Vapor Pressure (RVP) standards outside of the summer ozone season; clarifications related to access to sampling records, quality assurance and quality controls for CBG suppliers, pipelines and third party terminals; limitations on the use of methyl tert-butyl ether (MTBE) as an oxygenate; new provisions allowing third party terminals to blend transmix; allowing recertification of CBG blendstock if an oxygenate blender uses an approved oxygenate that differs from the supplier's blending instructions; and updates to the materials incorporated by reference related to the California Predictive Model and the Federal Complex Model. The TSD contains additional information about these changes.

III. The EPA's Evaluation and Action

A. How is the EPA evaluating the submittals?

SIP rules must be enforceable (CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and Reasonable Further Progress (RFP) or other CAA requirements (CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (CAA section 193). Additional CAA requirements apply to SIP revisions addressing state fuel programs. CAA section 211(c)(4)(A) preempts states from regulating motor fuel characteristics or components where the EPA has adopted a control or prohibition under section 211(c)(1),[23] unless the state control is identical to the federal control. The EPA may waive preemption by approving the state requirements into a SIP. Approval of state fuel controls or prohibitions into a SIP requires the EPA to determine that the program is necessary to achieve NAAQS implemented by the SIP.[24]

The Energy Policy Act of 2005 (EPAct) amended the CAA by requiring the EPA, in consultation with the Department of Energy (DOE), to determine the total number of fuels approved into all SIPs under section 211(c)(4)(C) as of September 1, 2004, and to publish a list identifying these fuels and the States and Petroleum Administration for Defense Districts (PADD) in which they are used.[25] The EPAct also established three additional restrictions on the EPA's authority to waive preemption by approving a state fuel program into a SIP:

- First, the EPA may not approve a state fuel program into the SIP if it would cause an increase in the total number of fuel types approved into SIPs as of September 1, 2004.[26]
- Second, the EPA is required to make a finding, after consultation with the DOE, that the new fuel will not cause supply or distribution interruptions or have a significant adverse impact on fuel producibility in the affected or contiguous areas.[27]
- Third, with the exception of 7.0 psi RVP, the EPA may not approve a state fuel into a SIP unless that fuel type is already approved in at least one SIP in the applicable PADD. CAA Section 211(c)(4)(C)(v)(I), (IV), and (V).[28]

On December 28, 2006, the EPA published our final interpretation of the EPAct provisions.[29] We also determined and published a list of fuels approved into all SIPs under section 211(c)(4)(C) as of September 1, 2004. These state fuels are also known as ''boutique fuels.'' Arizona's CBG appears on the final list as two boutique fuels: a summer blend in effect from May 1 to September 30, and a non-summer blend in effect from October 1 to April 30.[30]

Generally, SIP revisions to an approved state fuel program that are within the scope of a previous necessity finding do not require another ''necessity'' demonstration under CAA section 211(c)(4)(C)(i). In addition, revisions that do not result in a ''new fuel type'' within the meaning of CAA section 211(c)(4)(C) would not implicate the EPAct restrictions. Revisions that do not raise preemption issues under CAA 211(c)(4)(C) or are administrative in nature because they improve and strengthen an existing SIP-approved program by clarifying provisions and updating references do not result in changes to ''required specific fuel components, specifications or limits,'' and thus do not result in a ''new fuel type.''

B. Do the submittals meet the evaluation criteria?

We have determined that the statutes and rules in the 2021 submittal and 2025 supplements are consistent with CAA requirements and relevant guidance regarding enforceability and SIP revisions. Additionally, the updates to the State's CBG program do not result

[22] In 2010, the EPA approved an amended version of the CARBOB model into the California SIP. See 75 FR 26653 at 26661.

[23] The EPA promulgated the regulations for the control and/or prohibition of fuels and additives for use in motor vehicles and motor vehicle engines in then 40 CFR part 80. In 2020, as part of the Fuels Regulatory Streamlining Rule, the EPA redrafted these controls and prohibitions into 40 CFR part 1090. (85 FR 78412). The EPA largely retained the controls and prohibitions set forth in 40 CFR part 80.

[24] CAA section 211(c)(4)(C)(i). ''Necessary'' means that no other measures exist that would bring about timely attainment, or that other measures exist and are technically possible to implement but are unreasonable or impracticable. CAA section 211(c)(4)(C)(i).

[25] CAA section 211(c)(4)(C)(v)(II).

[26] CAA section 211(c)(4)(C)(v)(I).

[27] CAA section 211(c)(4)(C)(v)((IV).

[28] CAA section 211(c)(4)(C)(v)((V).

[29] 71 FR 78192.

[30] *See* 71 FR 78199.

in a ''new fuel'' as prohibited under the EPAct.

CAA section 110(l) states that the EPA cannot approve a SIP revision if it would interfere with any applicable requirement concerning attainment, or RFP, or any other applicable CAA requirement. The revisions submitted by ADEQ are administrative in nature and will not result in increased emissions.

The TSD contains additional discussion of our evaluation, including our specific analyses of how the submitted statutes and rules meet the applicable requirements. Based on our review and evaluation of the 2021 submittal and 2025 supplements, as discussed in our TSD, we are proposing to determine that the statutes and rules submitted for inclusion in the Arizona SIP are consistent with CAA requirements and relevant guidance regarding enforceability and SIP revisions and would not interfere with RFP or attainment of any NAAQS or otherwise modify existing SIP requirements in a way that would reduce overall emissions reductions. Additionally, the State's elimination of the GSA program and updates to its CBG and winter oxygenated fuel programs regarding fuel characteristics and components are either not preempted or fall within the scope of our previous ''necessity'' finding as required by CAA section 211(c)(4)(C),[31] and do not result in any ''new fuel'' as described in EPAct 2005. Consequently, we are proposing to approve the submitted revisions amending the CBG program and eliminating the GSA program into the Arizona SIP.

The CBG revisions we propose to approve are administrative in nature. They update the existing SIP-approved program by clarifying provisions, updating references, and enhancing program flexibility and our proposed action will not impose any additional costs or regulatory burdens. We therefore anticipate that our proposed action will have no impact upon the supply or price of gasoline in the Phoenix metropolitan area. Additionally, the requirements of the Arizona CBG program are currently subject to the EPA's waiver of federal enforcement of state boutique fuel requirements for gasoline.[32]

[31] 63 FR 6653.

[32] Letter dated March 25, 2026, from Lee M. Zeldin, EPA Administrator, to Governors, ''Re: National Fuel Waiver to Create Single National Gasoline Pool.'' This waiver has subsequently been extended for additional 20-day periods. See EPA, Fuel Waivers, *https://www.epa.gov/gasoline-standards/fuel-waivers.*

C. EPA Recommendations to Further Improve the Rules

The TSD includes additional recommendations for the next time Arizona modifies the rules. This section of the TSD also describes changes made to the CBG program in 2023 that have revised the regulations relative to the submitted versions. As described in the TSD, our final approval of the current submittal into the SIP will make the submitted regulations federally enforceable regardless of any subsequent changes adopted by Arizona, and the State will be responsible for implementing the rules as approved by the EPA. Our recommendations include a general recommendation for the State to work with the EPA prior to making any further changes to the CBG program, to ensure that subsequent SIP submittals will meet applicable CAA requirements and will be approvable as revisions to the approved program.

D. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules because they fulfill all relevant requirements. We will accept comments from the public on this proposal until July 23, 2026. If we take final action to approve the submitted rules, our final action will incorporate these rules into the federally enforceable SIP.

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the statutes and rules as identified and described in Section II of this preamble. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 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 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 9, 2026.

Michael Martucci,

Acting Regional Administrator, EPA Region IX.

[FR Doc. 2026–12551 Filed 6–22–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2024–0225; FRL–13376–01–R8]

Air Plan Approval; Colorado; RACT Requirements for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to approve portions of Colorado State Implementation Plan (SIP) submittals under the Clean Air Act (CAA) that address SIP obligations related to Reasonably Available Control Technology (RACT) requirements for the 2008 ozone National Ambient Air Quality Standards (NAAQS) for the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado ozone nonattainment area. The EPA is proposing approval of portions of the RACT SIP submittals that address reporting requirements for certain source categories and reorganize certain state air pollution regulations. The EPA is also proposing to find that the State has addressed the EPA's prior limited disapproval.

DATES: Written comments must be received on or before July 23, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2024–0225, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *https://www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. 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.*

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in *https://www.regulations.gov.* Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

FOR FURTHER INFORMATION CONTACT: Adam Clark, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number: (303) 312–7104, email address: *clark.adam@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. What action is the EPA proposing to take?

As explained in section V., below, the EPA is proposing to approve various Colorado SIP provisions that the State submitted on April 2, 2025, that address reporting requirements for certain source categories. The EPA is also proposing to approve organizational SIP revisions, specifically the relocation of existing portions of Colorado's Reg. 7 into new standalone regulations, which were submitted by the State on May 23, 2024.

On May 9, 2023, the EPA finalized approval, conditional approval, limited approval, and limited disapproval of different aspects of multiple SIP submittals revising Reg. 7 that were submitted between 2018 through 2022.[1] Of relevance to this proposed action, the EPA finalized a limited disapproval with respect to the adequacy of the reporting requirements associated with certain provisions identified in the May 9, 2023 final action.[2]

On May 3, 2024, the State of Colorado resubmitted portions of the prior SIP submissions that were the subject of the limited disapproval and also submitted a letter committing to undertake additional steps to improve reporting requirements and access to compliance information, and to clarify existing SIP reporting requirements (Commitment Letter).[3] Specifically, in the Commitment Letter, the State committed to submit SIP revisions to the EPA by May 31, 2025 that would add additional reporting provisions for the following source categories: (1) metal parts and metal products coatings; (2) wood products coatings; (3) combustion equipment at major sources, and; (4) foam manufacturing.[4]

On August 6, 2024, the EPA proposed to conditionally approve the resubmitted SIP based on the State's commitment to add reporting requirements for these four source categories as described in the Commitment Letter.[5] The EPA proposed to find that the State's commitment, if fulfilled, would address the deficiencies identified in the May 9, 2023 rulemaking that were the basis for the limited disapproval.[6] The EPA simultaneously issued an interim final determination on August 6, 2024, which deferred the imposition of sanctions that were triggered by the EPA's May 9, 2023 limited disapproval.[7]

On April 2, 2025, Colorado submitted to the EPA a SIP revision intended to

[1] Final rule, Air Plan Approval, Conditional Approval, Limited Approval and Limited Disapproval; Colorado; Serious Attainment Plan Elements and Related Revisions for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 88 FR 29827.

[2] *Id.* at table 2, 88 FR 29830.

[3] ''Resubmittal of SIP revisions following Reconsideration. EPA Docket Nos.: EPA–R08–OAR–2022–0632; EPA–R08–OAR–2022–0857; and FRL–10362–02–R8'' commitment letter. Available in the docket for this action.

[4] *Id.* In the Commitment Letter, Colorado also provided additional clarification to demonstrate the adequacy of existing reporting requirements related to the inspection and performance testing of storage tanks and centrifugal compressors as well as for the State's consumer product and Architectural and Industrial Maintenance (AIM) coating rules. This proposed approval does not cover those existing reporting requirements. Rather, the EPA proposed to approve those reporting requirements in our August 6, 2024 proposed approval. *See* 89 FR 63852.

[5] 89 FR 63852.

[6] *Id.* Our August 6, 2024 proposed action also proposed approval of existing reporting requirements related to the inspection and performance testing of storage tanks and centrifugal compressors as well as for the consumer product and AIM coating rules based on the additional information provided by the State in its Commitment Letter. *See* 89 FR 63852. The EPA intends to take final action on these elements of the August 6, 2024 proposed action in the same final rulemaking document as the provisions covered by this proposed action.

[7] 89 FR 63818.

fulfill the State's commitments in the Commitment Letter that was the basis for the EPA's proposed conditional approval on August 6, 2024. The EPA is now proposing to approve the April 2, 2025 submittal, as discussed further below.[8] This proposed approval supersedes the EPA's previous proposed conditional approval, as the EPA is now proposing full approval of all the provisions that we previously proposed to conditionally approve.

II. Background

A. 2008 8-Hour Ozone NAAQS Nonattainment

On March 12, 2008, the EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) (based on the annual fourth-highest daily maximum 8-hour average concentration, averaged over 3 years).[9] The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more protective level. Specifically, the 2008 8-hour ozone NAAQS is met when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm.[10] Effective July 20, 2012, the EPA designated any area as nonattainment that caused or contributed to a violation of the 2008 8-hour ozone NAAQS based on the three most recent years (2008–2010) of air monitoring data.[11]

Ozone nonattainment areas are initially classified based on the severity of their ambient ozone levels, as determined using the area's design value. The design value is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration at a monitoring site.[12] In our July 20, 2012 action, the EPA initially designated the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado area as nonattainment and classified the area as Marginal.[13] The nonattainment area includes Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson Counties and portions of Larimer and Weld Counties. The EPA refers to this nonattainment area as the Denver Metro/North Front Range (DMNFR) for ease of reference.[14] The DMNFR area did not attain the 2008 8-hour ozone NAAQS by the applicable Marginal area attainment deadline, and accordingly was reclassified as Moderate.[15] After not attaining the 2008 ozone NAAQS for subsequent attainment dates, the area was reclassified to Serious, and then to Severe nonattainment status.[16]

B. The EPA's May 9, 2023 Final Rule

On May 9, 2023, the EPA took final action approving portions of the 2008 8-hour ozone Serious area attainment plan for the DMNFR area submitted by the State of Colorado on March 22, 2021, and portions of additional SIP submissions made by the State related to those requirements on May 8, 2019, May 13, 2020, March 22, 2021, May 18, 2021, and May 20, 2022.[17] The State made these SIP submissions to meet Serious ozone nonattainment plan requirements for the DMNFR area. Specifically, the submissions address CAA section 182(b)(2) RACT requirements for certain source categories and adopt volatile organic compounds (VOC) standards for consumer products and architectural and industrial maintenance coatings in the DMNFR area. In the May 9, 2023 action, the EPA also finalized a limited approval and limited disapproval of parts of the SIP submissions made on May 14, 2018, May 13, 2020, March 22, 2021, May 18, 2021, and May 20, 2022, addressing RACT for certain source categories,[18] and finalized a limited conditional approval and limited disapproval of specific provisions intended to meet RACT requirements for other source categories.[19]

The limited disapproval portions of the May 9, 2023 final rule were based on the EPA's determination that although the rules largely met RACT requirements with respect to stringency, they lacked provisions necessary to satisfy CAA section 110 enforceability requirements and related regulatory reporting requirements under 40 CFR 51.211.

On July 10, 2023, the State submitted a Petition for Reconsideration asking the EPA to reconsider the limited disapproval portions of the May 9, 2023 final rule.[20] The EPA responded to the Petition for Reconsideration in a letter dated August 31, 2023, informing the State that the EPA was granting the petition as to the limited disapproval portions of the May 9, 2023 final rule.[21] Through the reconsideration process, Colorado had the opportunity to clarify and explain more fully how certain state regulations do provide for adequate enforceability, to inform the EPA of various actions taken by the Colorado Air Pollution Control Division (Division) to enhance access to records and information, and to consider what changes to existing regulations would improve reporting requirements to address the May 9, 2023 limited disapproval.

C. The EPA's August 6, 2024 Proposed Rule

On May 3, 2024, the State of Colorado resubmitted portions of the prior SIP submissions that were the subject of the May 9, 2023 limited disapproval and also submitted the Commitment Letter, in which the State committed to undertake additional steps to improve access to regulatory compliance information and clarify existing SIP reporting requirements.[22] Based on the additional information provided in the Commitment Letter, on August 6, 2024, the EPA proposed to approve Colorado's Reg. 7 and Reg. 21 with respect to the adequacy of reporting requirements for storage tank emission controls, storage tank and wet seal centrifugal compressor control device testing, consumer products, and architectural and industrial maintenance (AIM) coatings.[23] In that action, the EPA also proposed to conditionally approve the adequacy of reporting requirements for metal parts and metal products coatings,

[8] In this proposed action, instead of finalizing a conditional approval, the EPA is proposing approval. This allows the public another opportunity to comment on the adequacy of reporting requirements for the following source categories, based upon Colorado's April 2, 2025 submission: (1) metal parts and metal products coatings; (2) wood products coatings; (3) combustion equipment at major sources, and; (4) foam manufacturing.

[9] 73 FR 16436 (March 27, 2008). The EPA has since further strengthened the ozone NAAQS, but the 2008 8-hour standard remains in effect. *See* 80 FR 65292 (Oct. 26, 2015).

[10] 40 CFR 50.15(b).

[11] 77 FR 30088 (May 21, 2012).

[12] 40 CFR part 50, appendix I.

[13] 77 FR at 30110. *See* 40 CFR 81.306.

[14] The EPA acknowledges that the DMNFR nonattainment area more precisely refers to the expanded area designated nonattainment under the 2015 NAAQS, but uses the term here because it has been used in our past actions related to this one and for ease of reference.

[15] 81 FR 26697 (May 4, 2016).

[16] 84 FR 70897 (Dec. 26, 2019) and 87 FR 60926 (Oct. 7, 2022).

[17] 88 FR 29827, table 1, 29829–29830 (May 9, 2023).

[18] *Id.* at 29830–29831, table 2 (listing portions subject to limited approval and limited disapproval), table 3 (RACT categories).

[19] *Id.* at 29830–29831, table 3. All other portions of the May 9, 2023 final rule were effective as of June 8, 2023, and remain in effect.

[20] The July 10, 2023 petition for reconsideration is available in docket number EPA–R08–OAR–2023–0483, concerning the EPA's October 4, 2023 proposed action to stay the portion of the agency's May 9, 2023 limited disapproval relating to reporting requirements. 88 FR 68532 (Oct. 4, 2023). The proposed stay has not been finalized. The petition for reconsideration, as well as Colorado's August 3, 2023 amended petition for reconsideration, is also available in the docket for this proposed action: EPA–R08–OAR–2024–0225.

[21] *See* letter from EPA Regional Administrator KC Becker to Colorado Attorney General Phil Weiser (Aug. 31, 2023), in the docket for this action.

[22] *See* footnote 3.

[23] 89 FR 63852.

wood products coatings, combustion equipment at major sources, and foam manufacturing based on the State's commitment to make further revisions to the reporting requirements or demonstrate the sufficiency of existing reporting for these specific rules, and to submit those revisions to the EPA for approval into the SIP by May 31, 2025.

III. Summary of Colorado's SIP Submittals

May 23, 2024 and April 2, 2025 SIP Revisions

The State of Colorado submitted formal SIP revisions on May 23, 2024 and April 2, 2025, which included administrative and substantive revisions to Reg. 7, 25, and 26. These SIP revisions included modifications to existing rules related to RACT and administrative reorganization of existing regulations.

The May 23, 2024 SIP submission substantially reorganizes Reg. 7. Of relevance to this proposed action, Reg. 7 was retitled from ''Control of Ozone via Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions (Emissions of Volatile Organic Compounds (VOC) & Nitrogen Oxides (NO_X))'' to ''Control of Emissions from Oil and Gas Emissions Operations.'' Additionally, Reg. 7, Part C was relocated to the newly established Reg. 25, ''Control of Emissions from Surface Coating, Solvents, Asphalt, Graphic Arts and Printing, and Pharmaceuticals,'' and Reg. 7, Part E was relocated to the newly established Reg. 26, ''Control of Emissions from Engines and Major Stationary Sources.'' [24] Table 1 details the provisions the EPA is proposing to approve in this action, which includes the relocation of a portion of Reg. 7 into Reg. 25 as submitted May 23, 2024.

The April 2, 2025 SIP submission also revises Reg. 7, 25, 26 and 27. Of relevance to this proposed action, this submittal makes the following revisions to Reg. 25, Part B: adds reporting requirements for manufactured metal parts and metal products at section I.L.6., and for wood products coatings at section I.O.6. This submittal also revises Reg. 26, Part B by adding a reporting requirement for combustion equipment rules at section II.A.8.c. and a reporting requirement for foam manufacturing at section V.A.8.b. The submittal contains additional revisions that the EPA is not proposing to act on here. These revisions were either addressed in the EPA's April 9, 2026 final rulemaking action,[25] or will be addressed in a separate future rulemaking.

IV. Procedural Requirements

The CAA requires that states meet certain procedural requirements before submitting a SIP revision to the EPA, including the requirement that states adopt SIP revisions after reasonable notice and public hearing.[26] Colorado adopted the May 23, 2024 submittal following a January 21, 2023 notice of rulemaking in the Denver Post and an April 20, 2023 rulemaking hearing.[27] Colorado adopted the April 2, 2025 submittal following an August 17, 2024 notice of rulemaking in the Denver Post and a December 18–20, 2024 rulemaking hearing.[28] The CAA also requires that the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress toward attainment of the NAAQS, or any other applicable requirement of the Act.[29] As discussed in section V., below, the Colorado SIP provisions that the EPA is proposing to approve in this action do not interfere with any applicable requirements of the Act.

V. The EPA's Evaluation of Colorado's SIP Submissions

In this proposed action, we are evaluating Colorado's April 2, 2025 SIP submittal, which is intended to fulfill the State's commitment to add reporting requirements in response to the May 9, 2023 limited disapproval. Our proposed approval of the SIP provisions in this action does not alter our previous determination that these rules implement RACT with respect to the source categories covered by the rules. It solely addresses the specified deficiencies in reporting requirements that were identified in the limited disapproval.[30] The EPA is taking comment on today's proposal for 30 days and will only be considering comments on this proposal that address our proposed approval with respect to reporting requirements for metal parts and metal products coatings, wood products coatings, combustion equipment at major sources, and foam manufacturing. This proposed approval of these provisions supersedes the proposed conditional approval of the State's Commitment Letter in the August 6, 2024 proposal. However, this proposed action has no bearing on the provisions that the EPA proposed to fully approve in the August 6, 2024 proposal.[31] When the EPA finalizes action on this proposal, we also intend to finalize action on the SIP provisions that we proposed to fully approve in our August 6, 2024 proposal.

Table 1, below, details the revisions from the two Colorado SIP submittals that the EPA is proposing to approve. The revisions in each submittal that the EPA is not proposing action on here will be addressed in later rulemakings.[32]

TABLE 1—LIST OF REVISIONS TO COLORADO REGULATIONS THE EPA IS PROPOSING TO APPROVE IN THIS ACTION

Submittal	Revisions included in the EPA's proposed approval
May 23, 2024	Removal of Reg. 7, Part C, sections I.L. and I.O.; Relocation of these provisions to Reg. 25, Part B, section I.
April 2, 2025	Reg. 25, Part B, section I.L.6., I.L.6.a., I.L.6.b., I.O.6. Reg. 26, Part B, sections II.A.8.c., V.A.8.b.

Note: At this time, the EPA is not proposing action on any of the revisions included in the May 23, 2024, and April 2, 2025, submittals besides those identified in table 1.

[24] May 23, 2024 SIP Submittal, ''Submittal Letter to EPA_Regs 7, 24, 25, 26_signed.'' The letter is dated May 21, 2024, but the SIP was submitted to EPA on May 23, 2024. The May 23, 2024 SIP Submittal was deemed complete by operation of law on November 23, 2024.

[25] 91 FR 17857.

[26] CAA section 110(a)(2), 42 U.S.C. 7410(a)(2).

[27] *See* May 23, 2024 SIP Submittal, ''Denver Post Legal Ad,'' in the docket for this action.

[28] *See* April 2025 SIP Submittal, Document Set 1 of 2, ''Denver Post Legal Ad,'' in the docket for this action.

[29] CAA section 110(l), 42 U.S.C. 7410(l).

[30] 88 FR 29827 (May 9, 2023).

[31] *See* 89 FR 63852 (August 6, 2024), where the EPA proposed to approve Colorado's Reg. 7 and Reg. 21 with respect to the adequacy of reporting requirements for storage tank emission controls, storage tank and wet seal centrifugal compressor control device testing, consumer products, and architectural and industrial maintenance (AIM) coatings.

[32] The EPA has previously approved certain revisions from these submittals in our April 9, 2026 final rule at 91 FR 17857.

A. Reorganization of Regulation 7 Into Regulation 25

As noted in section III.A. above, on May 23, 2024, Colorado submitted revisions that substantially reorganized Reg. 7 by relocating sections of Reg. 7 into Reg. 25 and Reg. 26. As part of Colorado's May 23, 2024 submittal, Reg. 7, Part E, section II. was relocated to the newly established Reg. 26, Part B, section II., and Reg. 7, Part E, section V. was relocated to the newly established Reg. 26, Part B, section V. The EPA proposed approval of the relocation of Reg. 7 into Reg. 26 Parts A and B on June 18, 2025.[33] In this proposed action, the EPA is proposing to approve the relocation of Reg. 7, Part C, sections I.L. (Manufactured Metal Parts and Metal Products) and I.O. (Wood Products Coating) to Reg. 25, Part B, sections I.L. and I.O., as submitted May 23, 2024 (see table 1). These organizational revisions do not involve substantive changes to any of the reorganized regulations and are not specific to the reporting requirements evaluated in this action, but the EPA is proposing to approve them here because subsequent regulatory revisions in Colorado's April 2, 2025 SIP submittal, that the EPA is addressing in this action, concern the newly established Reg. 25.

B. Metal Parts and Metal Product Rules, Reg. 25, Part B, Section I.L

Reg. 7, Part C, section I. contains existing rules for surface coating operations.[34] As stated, section I.L. was relocated to the newly established Reg. 25, Part B, section I.L. as part of Colorado's May 23, 2024 submission, and the EPA is proposing to approve this relocation. Section I.L. includes metal parts and metal products rules and applies to major and minor sources of VOC in the DMNFR Area. The rules require sources to use products that comply with VOC content limits listed in tables 1 and 2 of the regulation.[35] The recordkeeping provisions in Reg. 25, Part B, section I.L.5. require applicable records to be maintained for five years and made available to the Division upon request.

In the April 2, 2025 submittal, Colorado incorporated additional reporting requirements for the metal parts and metal products source category into Reg. 25, Part B, section I.L.6. that require sources to submit an annual report that includes a demonstration that products used during the calendar year comply with the applicable VOC content limits.[36] This information is made available through the Division's Public Records Portal.[37] Accordingly, the EPA is proposing to find that the April 2, 2025, revisions to Reg. 25, Part B, section I.L., specifically the addition of section I.L.6., I.L.6.a. and I.L.6.b., address the CAA section 110 and 40 CFR 51.211 regulatory requirements for enforceability.

C. Wood Products Coating Rules, Reg. 25, Part B, Section I.O

Reg. 7, Part C., section I.O. includes existing wood products coating rules applicable to major stationary sources of VOC emissions in the DMNFR Area.[38] As stated, Reg. 7, Part C section I.O. was relocated to the newly established Reg. 25, Part B, section I.O. as part of Colorado's May 23, 2024 submission, and the EPA is proposing to approve this relocation. The rules require sources to use products that comply with the VOC content limits in section I.O.3. The recordkeeping provisions in section I.O.5. require applicable records to be maintained for five years and to be made available to the Division upon request.

Colorado's April 2, 2025 SIP revisions require sources to submit a semi-annual report documenting that the products used during the previous semi-annual reporting period comply with the VOC content limits in Reg. 25, Part B, section I.O.3.[39] This information is made available through the Division's Public Records Portal. Accordingly, the EPA is proposing to find that the April 2, 2025 revisions to Reg. 25, Part B, section I.O., specifically the addition of section I.O.6., address the CAA section 110 and 40 CFR 51.211 regulatory requirements for enforceability.

D. Combustion Equipment Rules, Reg. 26, Part B, Section II

Reg. 26, Part B, section II. includes existing requirements for combustion equipment located at major sources of NO_X emissions in the DMNFR Area.[40] This section requires sources to comply with NO_X emission limits and combustion tuning requirements. The recordkeeping provisions in SIP-approved Reg. 26, Part B, section II.A.7. require that affected sources keep records for a period of five years and make them available to the Division upon request.

The State's April 2, 2025 SIP revisions require the relevant sources to submit a semi-annual report documenting compliance with the combustion process adjustment requirements in Reg. 26, Part B, section II.A.6.[41] The reports must include information with respect to sources not also subject to continuous monitoring or performance testing such that the information provides for evaluation of compliance with all of the applicable SIP emission limitations in Reg. 26, Part B, section II. This information is accessible through the Division's Public Records Portal. Accordingly, the EPA is proposing to approve the State's April 2, 2025 revision adding section II.A.8.c. to Reg. 26, Part B, because it addresses the CAA section 110 and 40 CFR 51.211 regulatory requirements for enforceability.

E. Foam Manufacturing Rules, Reg. 26, Part B, Section V

Reg. 26, Part B., section V. includes existing requirements for foam manufacturing operations located at major sources of VOC emissions in the DMNFR Area.[42] The rules require sources to comply with VOC emission limits in section V.A.4. The recordkeeping provisions in section V.A.7. require that affected sources keep records for a period of five years and make them available to the Division upon request.

The State's April 2, 2025 SIP revisions require sources to submit a semi-annual report documenting compliance with the VOC emission limits in section V.A.4.[43] This information is accessible through the Division's Public Records

[33] 90 FR 25960.

[34] Reg. 7, Part C SIP-approved rules can be found at *https://www.epa.gov/air-quality-implementation-plans/epa-approved-statutes-and-regulations-colorado-sip.*

[35] April 2025 SIP Submittal, Document Set 1 of 2, ''SBAP Adopted R25 (clean)'' at 37–39.

[36] April 2025 SIP Submittal, Document Set 1 of 2, ''Reg Language Adopted R25 (redline)'' at 3.

[37] Colorado's Commitment Letter also lists other ways to access to reporting information. Colorado May 3, 2024 letter to EPA, at 2–3.

[38] Reg. 7, Part C SIP approved rules can be found at *https://www.epa.gov/air-quality-implementation-plans/epa-approved-statutes-and-regulations-colorado-sip.*

[39] April 2025 SIP Submittal, Document Set 1 of 2, ''Reg Language Adopted R25 (redline)'' at 4.

[40] As stated in section V.A., the EPA proposed approval of the relocation of Reg. 7 Part E to Reg. 26 Parts A and B from Colorado's May 23, 2024 submittal on June 18, 2025. 90 FR 25960. Reg. 7, Part E SIP approved rules can be found at *https://www.epa.gov/air-quality-implementation-plans/epa-approved-statutes-and-regulations-colorado-sip.*

[41] April 2025 SIP Submittal, Document Set 1 of 2, ''Reg Language Adopted R26 (redline)'' at 18.

[42] As stated in section V.A., the EPA proposed approval of the relocation of Reg. 7 Part E to Reg. 26 Parts A and B from Colorado's May 23, 2024 submittal on June 18, 2025. 90 FR 25960. Reg. 7, Part E SIP-approved rules can be found at *https://www.epa.gov/air-quality-implementation-plans/epa-approved-statutes-and-regulations-colorado-sip.*

[43] April 2025 SIP Submittal, Document Set 1 of 2, ''Reg Language Adopted R26 (redline)'' at 19.

Portal.[44] Accordingly, the EPA is proposing to approve the State's April 2, 2025 revision adding section V.A.8.b. to Reg. 26, Part B, because it addresses the CAA section 110 and 40 CFR 51.211 regulatory requirements for enforceability.

VI. Proposed Action

For the reasons explained above, the EPA proposes to approve the relocation of Reg. 7, Part C, sections I.L. and I.O. to Reg. 25, Part B, sections I.L. and I.O. as detailed in Colorado's May 23, 2024 SIP submittal. The EPA also proposes to approve Colorado's April 2, 2025 SIP revisions to metal parts and metal products coatings rules in Reg. 25, Part B, section I.L.6.; wood products coatings rules in Reg. 25, Part B, section I.O.6.; rules for combustion equipment at major sources in Reg. 26, Part B, section II.A.8.c.; and rules for foam manufacturing operations in Reg. 26, Part B, section V.A.8.b. The EPA is soliciting public comments on the proposed action and our rationale for the proposed action. The EPA will accept comments from the public on this proposal for the next 30 days and will consider comments before taking final action. In finalizing action on this proposal as well as the August 6, 2024 proposal, the EPA intends to respond to: (1) the comments that may be submitted concerning this proposal that address our proposed approval with respect to reporting requirements for metal parts and metal products coatings, wood products coatings, combustion equipment at major sources, and foam manufacturing; and (2) the public comments that were already submitted with respect to the proposed approval aspect of our August 6, 2024 proposal, which is not superseded by this proposal and for which the EPA is not soliciting additional comments in this action.

VII. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Colorado Air Quality Control Commission Reg. 25 pertaining to the ''Control of Emissions from Surface Coating, Solvents, Asphalt, Graphic Arts and Printing, and Pharmaceuticals,'' Reg. 26 pertaining to the ''Control of Emissions from Engines and Major Stationary Sources'' and Reg. 7 pertaining to the ''Control of Ozone via Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions (Emissions of Volatile Organic Compounds (VOC) & Nitrogen Oxides (NO_X))'' (as specified in sections III.A. and V.A. above). The EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VIII. 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 proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon oxides, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: June 11, 2026.

Cyrus M. Western,

Regional Administrator, Region 8.

[FR Doc. 2026–12543 Filed 6–22–26; 8:45 am]

BILLING CODE 6560–50–P

[44] *See* p. 2–3 of the Commitment Letter for a description of ways the public can access records and information.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[RTID 0648–XE919]

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Amendment 22 to the Coastal Pelagic Species Fishery Management Plan

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

ACTION: Announcement of availability of fishery management plan amendment; request for comments.

SUMMARY: The Pacific Fishery Management Council (Council) has submitted Amendment 22 to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) for review by the Secretary of Commerce. This notification announces that the proposed Amendment 22 to the CPS FMP is available for public review and comment and is currently being reviewed by NMFS for approval, disapproval, or partial approval. If approved, Amendment 22 would update essential fish habitat (EFH) provisions for stocks managed under the CPS FMP based on a recent review of available

information. There are no management measures proposed as part of this action, and no regulations are necessary to implement the proposed updates. The Council has proposed this amendment with the intention to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the CPS FMP, and other applicable laws. NMFS will consider public comments in deciding whether to approve, disapprove, or partially approve Amendment 22.

DATES: Comments on this announcement of availability must be received by August 24, 2026, to be considered in the decision whether to approve, disapprove, or partially approve Amendment 22.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2025–0051, by the following method:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and type NOAA–NMFS–2025–0051 in the Search box (note: copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments must be submitted by the above method to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *etc.*) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic Access

This announcement of availability is accessible via the internet on the Office of the Federal Register website at *https://www.federalregister.gov/*. Additionally, background information and documents are available on the Pacific Fishery Management Council's website at *https://www.pcouncil.org/actions/cps-fmp-amendment-22/.*

FOR FURTHER INFORMATION CONTACT: Laura Gray, Sustainable Fisheries Division, NMFS, (301) 427–8490, *Laura.Gray@noaa.gov;* or Kerry Griffin, Staff Officer, Pacific Fishery Management Council, (503) 820–2409, *Kerry.Griffin@pcouncil.org.*

SUPPLEMENTARY INFORMATION:

The MSA requires each regional fishery management council to submit any amendment to an FMP to NMFS for review and approval, disapproval, or partial approval. The MSA also requires that NMFS, upon receiving an amendment to an FMP, immediately publish a notification in the **Federal Register** that the amendment is available for public review and comment (16 U.S.C. 1854(a)(1)(B)). This notification announces that the proposed Amendment 22 to the CPS FMP is available for public review and comment. NMFS will consider the public comments received during the comment period described above in determining whether to approve, disapprove, or partially approve Amendment 22.

Background

The MSA mandates that each FMP describe and identify EFH for the fishery (16 U.S.C. 1853(7)). EFH is defined as ''those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity'' (16 U.S.C. 1802(10)). Under this authority, NMFS and the Council have developed a comprehensive strategy to conserve EFH. This includes incorporating EFH into each of the Council's FMPs, identifying fishing and non-fishing impacts and associated conservation recommendations, and other required EFH elements. EFH requirements and the process for periodic EFH reviews are described in the EFH regulations at 50 CFR 600.815(a).

EFH was originally described for CPS species under Amendment 8 to the FMP, implemented in January 2000, in both the text of the FMP (section 2.3.1.2) and Appendix D. An EFH designation for krill was adopted in 2009 under Amendment 12, which added those species to the FMP as prohibited harvest species. The species currently managed under the CPS FMP include Pacific sardine (*Sardinops sagax*), Pacific mackerel (*Scomber japonicus*), northern anchovy (*Engraulis mordax*), market squid (*Doryteuthis opalescens*), Jack mackerel (*Trachurus symmetricus*), and all species of krill (Euphausiids) in the West Coast Exclusive Economic Zone (EEZ). EFH provisions of the CPS FMP were reviewed comprehensively in 2010, at which time revisions were found not warranted. The Council initiated the latest review of the EFH provisions in 2020. Based on a literature review and an evaluation of that material by the Council's CPS Management Team, the Council determined in 2021 that new information warranted updating the EFH provisions in the FMP. The Council took final action in June 2023.

Summary of Proposed Amendment 22

This section describes the proposed updates that Amendment 22 would make to EFH provisions in the CPS FMP, which the Council recommended based on a review of available information. The revised FMP text and Appendix D to the FMP include supporting information and rationale for the modifications recommended by the Council. There are no management measures proposed as part of this action, and no regulations are necessary to implement the proposed changes.

Species Groupings: Regulatory guidance at 50 CFR 600.815(a)(1)(iv)(E) allows that EFH be designated for *assemblages of species or life stages that have similar habitat needs and requirements.* Market squid are proposed to be removed from their prior species grouping with the CPS finfish assemblage based on differences in life histories, distributions, and habitat needs. The assemblage of ''other krill'' is proposed to include three additional species, updated in Appendix D with corresponding updates in the text of the FMP, to ensure the list of ''All Species in West Coast EEZ'' is accurate. The following species would be included in the discussion of ''other krill'' EFH: *Thysanoessa inspinata, Stylocheiron affine,* and *Euphasia hemigibba.*

EFH Description and Identification, Species Distribution and Habitat, Life History, and Relevant Trophic Information: Because market squid would be described separately from the CPS finfish assemblage for the first time, the EFH provisions would be updated with an EFH definition and more information on the distribution and habitat of this species. Market squid EFH would be defined as the area from the shoreline seaward to the extent of its 5.8 percent distribution probability, including waters to a depth of 300 meters (m), and where the sea surface temperature is between 7° and 24°C along the coasts of California, Oregon, and Washington. This definition would include U.S. waters of Puget Sound and the Salish Sea and exclude other estuarine waters on the Pacific Coast. Market squid EFH would also include soft, sandy substrates 13 m to 93 m of depth for spawning adults and the egg

capsule stage. EFH for all CPS finfish and krill remain as previously defined, but information on these species would be improved with updated distributional data and maps. Overall, descriptions of all species' life histories, habitats, and relevant trophic information would be augmented to reflect available scientific information, given advances in knowledge since the last update to EFH provisions of the CPS FMP.

Non-Fishing Impacts and Conservation and Enhancement Measures: The existing list of non-fishing impacts and conservation and enhancement measures would be updated based on a recent NMFS publication which comprehensively describes non-fishing impacts and conservation measures that may be relevant to EFH for CPS species.

Research and Information Needs: The Council adopted several Research and Information (R&I) Needs, as required by EFH regulations. This list would be updated with respect to oceanographic and environmental factors, species distributions, habitat features that might inform the designation of Habitat Areas of Particular Concern (HAPCs), trophic ecology, and fishing effects.

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

Dated: June 18, 2026.

Kelly Denit,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–12597 Filed 6–22–26; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 91, No. 119

Tuesday, June 23, 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

National Institute of Food and Agriculture

Notice of Intent To Extend and Revise a Previously Approved Information Collection

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations), this notice announces the National Institute of Food and Agriculture's (NIFA) intention to extend and revise a previously approved information collection, entitled *Small Business Innovation Research (SBIR) Funding Agreement Certifications.*

DATES: Written comments on this notice must be received by August 24, 2026 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: You may submit comments through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Laura Givens, 816–527–5379, *Laura.Givens@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Funding Agreement Certifications.

OMB Control Number: 0524–0052.

Expiration Date of Current Approval: 09/30/2026.

Type of Request: Notice of intent to extend and revise a previously approved information collection for three years.

Abstract: NIFA is requesting approval extend and revise a previously approved information collection entitled ''Small Business Innovation Research (SBIR) Funding Agreement Certifications.'' This information collection includes two forms: an ''SBIR/STTR Funding Agreement Certification'' and a ''Certification for SBIR Applicants that are Majority-Owned by Multiple Venture Capital Operating Companies, Hedge Fund or Private Equity Firms.'' NIFA asks all recipients of SBIR and STTR grants to submit an SBIR/STTR Funding Agreement Certification form after NIFA has provided the grantee notification of the award, as well as any other time that is specified in the funding agreement. NIFA also asks SBIR and STTR applicants that are majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms to submit an additional certification form prior to submitting an application. These certification statements are for the purpose of determining the eligibility of the SBC for an SBIR and STTR awards. NIFA is proposing implementation of these forms to match the guidance provided in the SBA SBIR/STTR Policy Directive effective May 3, 2023.

Abstract: The SBIR and STTR programs at the U.S. Department of Agriculture (USDA) make competitively awarded grants to qualified small businesses to support high quality, advanced concepts research related to important scientific problems and opportunities in agriculture that could lead to significant public benefit if successful.

The objectives of the SBIR and STTR Programs are to: stimulate technological innovations in the private sector; strengthen the role of small businesses in meeting Federal research and development needs; increase private sector commercialization of innovations derived from USDA-supported research and development efforts; and foster and encourage participation of new entrants and emerging states in technological innovations. In addition to the broad goals of the SBIR program, the statutory purpose of the STTR program is to stimulate a partnership of ideas and technologies between innovative SBCs and non-profit Research Institutions. The USDA SBIR/STTR programs are carried out in three separate phases:

1. Phase I awards to determine, insofar as possible, the scientific and technical merit and feasibility of ideas that appear to have commercial potential.

2. Phase II awards to further develop work from Phase I that meets particular program needs and exhibits potential for commercial application.

3. Phase III awards where commercial applications of SBIR and STTR-funded R(Research)/R&D (Research and Development) are funded by non-Federal sources of capital; or where products, services or further research intended for use by the Federal Government are funded by follow-on non-SBIR/STTR Federal Funding Agreements.

The USDA SBIR/STTR Programs are administered by the National Institute of Food and Agriculture (NIFA) of the USDA. NIFA exercises overall oversight for the policies and procedures governing SBIR/STTR grants awarded to the U.S. small business community. In 1982, the Small Business Innovation Research (SBIR) Grants Program (Pub. L. 97–219, 96 stat. 217), 15 U.S.C. 638, was authorized. In 1992, the Small Business Technology Transfer (STTR) Grants Program was authorized by the Small Business Research and Development Enhancement Act (15 U.S.C. 638). In 2026, the Small Business Innovation and Economic Security Act reauthorized the SBIR and STTR programs through September 30, 2031.

USDA uses the SBIR/STTR Funding Agreement Certification form to ensure SBCs meet specific eligibility requirements for a Small Business Innovation and Research or Small Business Technology Transfer award. The form asks applicants to certify a series of ten statements in order to ensure the grantee is complying with specific program requirements during the life of the funding agreement. If the SBC is majority-owned by venture capital companies, hedge funds, or private equity firms, then they will be required to fill out an eight-question form in addition to the SBIR/STTR Funding Agreement Certification. The small business concern may be required to update the SBIR/STTR Funding Agreement Certification form to assure continued eligibility and compliance when changes in the SBC apply.

Estimate of Burden: The forms in this collection are required to be completed

for Phase I and Phase II awardees and updated when there is a change in the business regarding the contents of the certification form.

Estimated Number of Respondents: 180.

Annual Responses: 1.

Average time to complete each response: 1 hour.

Burden hours: 180 hours.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request to OMB for approval. All comments will become a matter of public record.

Obtaining a Copy of the Information Collection: A copy of the information collection and related instructions may be obtained free of charge by contacting Laura Givens as directed above.

Done at Washington, DC this day of June 18, 2026.

Drenda Williams,

Associate Director for Operations, National Institute of Food and Agriculture, U.S. Department of Agriculture.

[FR Doc. 2026–12647 Filed 6–22–26; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2182]

Denial of Production Authority; Foreign-Trade Zone 3; Phillips 66 Company; (Renewable Fuels and By-Products); Rodeo, California; Correction

SUMMARY: The **Federal Register** notice published on June 17, 2026, regarding Board Order 2182 not to approve the application submitted to the Foreign-Trade Zones (FTZ) Board by the grantee of FTZ 3, is being corrected.

FOR FURTHER INFORMATION CONTACT: Juanita Chen at *juanita.chen@trade.gov;* telephone 202–482–1378.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of June 17, 2026, in FR Doc. 2026–12216, on page 36569, the second paragraph, which states ''WHEREAS, the San Francisco Port Commission, grantee of FTZ 3, has requested production authority on behalf of Phillips 66 Company, within Subzone 3D in Rodeo, California (B–43–2024, docketed August 8, 2024)'' is corrected to read as ''WHEREAS, the San Francisco Port Commission, grantee of FTZ 3, has requested production authority on behalf of Phillips 66 Company, within Subzone 3E in Rodeo, California (B–43–2024, docketed August 8, 2024)''

Dated: June 18, 2026.

Juanita Chen,

Acting Executive Secretary.

[FR Doc. 2026–12574 Filed 6–22–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–27–2025]

Foreign-Trade Zone (FTZ) 102; Authorization of Limited Production Activity; Tight Line Composites, LLC; (Carbon Fiber Profiles for Wind Turbine Spar Caps); Earth City, Missouri

On April 21, 2025, Tight Line Composites, LLC submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 102H, in Earth City, Missouri.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (90 FR 18954–18955, May 5, 2025). On June 17, 2026, the applicant was notified of the FTZ Board's decision that further review of part of the proposed activity is warranted. The FTZ Board authorized the production activity described in the notification on a limited basis, subject to the FTZ Act and the Board's regulations, including section 400.14, and further subject to a restriction requiring privileged foreign (PF) status (19 CFR 146.41) on all foreign status components. The requirement for PF status will remain even if changes are made to trade measures that separately require PF status.

Dated: June 17, 2026.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2026–12536 Filed 6–22–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–51–2025]

Foreign-Trade Zone (FTZ) 189; Authorization of Production Activity; Plascore, Incorporated; (Metal, Aramid Paper and Plastic Honeycomb); Zeeland, Michigan

On December 8, 2025, Kent-Ottawa-Muskegon Foreign-Trade Zone, grantee of FTZ 189, submitted a notification of proposed production activity to the FTZ Board on behalf of Plascore, Incorporated, within Subzone 189I, in Zeeland, Michigan.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (90 FR 57731–57732, December 12, 2025). On June 18, 2026, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification on a limited basis, subject to the FTZ Act and the Board's regulations, including section 400.14, and further subject to a two-year time period. This two-year time period should be used to assess and qualify a domestic supplier of aramid fiber.

Dated: June 18, 2026.

Juanita Chen,

Acting Executive Secretary.

[FR Doc. 2026–12575 Filed 6–22–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–9–2026]

Foreign-Trade Zone (FTZ) 70; Authorization of Production Activity; IMRA America Inc.; (Femtosecond Fiber Laser Systems); Ann Arbor, Michigan

On January 19, 2026, the Greater Detroit Foreign-Trade Zone, Inc., grantee of FTZ 70, submitted a notification of proposed production activity to the FTZ Board on behalf of IMRA America, Inc., within FTZ 70, in Ann Arbor, Michigan.

The notification was processed in accordance with the regulations of the

FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (91 FR 3104, January 26, 2026). On June 18, 2026, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including section 400.14.

Dated: June 18, 2026.

Juanita Chen,

Acting Executive Secretary.

[FR Doc. 2026–12567 Filed 6–22–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–76–2026]

Foreign-Trade Zone (FTZ) 18, Notification of Proposed Production Activity; KLA Corporation; (Semiconductor Wafer Fabrication Tools); Milpitas, California

KLA Corporation submitted a notification of proposed production activity to the FTZ Board (the Board) for its facilities in Milpitas, California within Subzone 18U. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on June 12, 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: laptops loaded with proprietary software, customizing the functionality to support wired and wireless wafers; racks customized to support defect inspection and metrology tools; remote user stations customized to support defect inspection and metrology tools; camera assemblies used in defect inspection and metrology equipment; cameras kits used in defect inspection and metrology equipment; cameras used in defect inspection and metrology equipment; objective lens used in defect inspection and metrology equipment; objective lenses used in defect inspection and metrology equipment; lenses used in defect inspection and metrology equipment; mirrors used in defect inspection and metrology equipment; optical lens used in defect inspection and metrology equipment; laser assemblies and subassemblies used in defect inspection and metrology equipment; laser heads in defect inspection and metrology equipment; lasers used in defect inspection and metrology equipment; laser subassemblies designed for specialized or custom applications in advanced defect inspection or metrology systems; laser subassemblies standard defect inspection and metrology equipment; in situ wafer temperature monitoring systems; wafers incorporating embedded temperature sensors, including resistance temperature detectors and thermocouples, for measuring wafer temperature during semiconductor processing; broadband plasma patterned wafer defect inspection subassemblies; reticle defect inspection subassemblies; electron-beam wafer defect review and classification subassemblies; retrofit kits for inspection and metrology equipment; temperature calibration instruments for temperature measurement systems in semiconductor processing; broadband plasma wafer defect inspection assemblies; electron beam wafer defect inspection assemblies; and reticle defect inspection assemblies (duty free).

The proposed foreign-status materials/components include: grease formulations for reducing friction and protecting moving parts in mechanical assemblies; lubricating oils used for hydraulic systems, drive units, and lead screws in machinery; specialty lubricants and greases designed for demanding or unique equipment applications; 300mm lithograph grade wafer; silica solution; alcohol based cleaning kits; heat transfer fluids for temperature control in semiconductor manufacturing applications; perfluorinated polyether dielectric heat transfer fluids; epoxy-based adhesives for use in semiconductor manufacturing applications; granite sealant; clean room grease and lubricants; liquid threadlocking adhesives; photoplotter film; quarts based reticles; 150mm silicon wafers; 200mm silicon wafers; 300mm silicon wafers; chemical reagents used for diagnostic analysis and process monitoring in semiconductor manufacturing; chemical solutions used in wafer processing, cleaning, and surface treatment in semiconductor manufacturing; polymer-based additives used in the formulation and stabilization of process solutions in semiconductor manufacturing; ph buffer solutions; litmus papers; polyethylene hoses; polyethylene pipes; polyethylene tubes; polypropylene tubing; polyvinyl chloride (pvc) tubing; reinforced plastic tubing for use in metrology inspection tools; plastic tube fittings; insulation tape; masking tape; packaging tape; electrical tape; foam blocks; plastic tool positioning sheets; flexible plastic sheets and strips used in packaging or protective applications; plastic (polyethylene) sheets, films, and strips, including laminated or reinforced forms; fitted plastic storage containers designed for use in manufacturing processes or equipment handling; plastic boxes and cases intended for organizing, storing, or transporting components during production; plastic sacks and bags; plastic bottles; plastic packing materials; plastic brackets; plastic bushings; plastic cable chain; plastic cable tie; plastic clamps; decorative plastic cover for detection machine; plastic ducts; plastic gaskets; plastic hoses; plastic mounts; plastic o-rings; plastic pads; plastic pins; plastic screws; plastic seals; plastic spacers; plastic standoffs; plastic suction cups; plastic timing belts; plastic tubing; plastic washers; plastics clips; rubber pads; unreinforced rubber tubing without fittings; unreinforced rubber tubing with fittings; drive belts made of rubber; rubber belt, reinforced with synthetic fibers, for industrial automation; transmission belts made of rubber; endless rubber timing belt for industrial machinery; endless rubber timing belt with textile reinforcement for industrial equipment; open-ended rubber timing belt for machinery or conveyors; specialty rubber timing belt, not endless, for industrial applications; nitrile gloves included in tool installation kits; rubber gaskets; rubber seals; rubber washers; rubber seals, gaskets, and o-rings used in vacuum systems in metrology equipment; rubber vacuum pads and tips used for wafer handling in metrology equipment; rubber mounts and shock absorbers used for vibration control in metrology equipment; hard plastic cases; paper labels; lens cleaner wipes used in tool installation kits; technical manual, procedures, and work instructions; cleaning swabs included with tool installation kits; cleaning pads included with tool installation kits; fiber optic cleaning wipes included with tool installation kits; granite slab; ceramic covers; ceramic machinery chambers; ceramic machinery screws; ceramic nozzles; ceramic plugs; ceramic shields; ceramic cylinders; glass substrate for technical or laboratory use, without surface finishing or coatings; glass

substrate, precision cut, used in semiconductor, photolithography, or optical manufacturing; glass syringes; quartz syringes; glass master plate; quartz cell tube assembly; quartz sample holder; quartz window; sapphire viewports; steel pipes; steel tubes; stainless steel welded pipes; stainless steel welded tubes; cast steel fittings; steel cast unions; stainless steel flanges; stainless steel elbows for redirecting flow in piping systems; stainless steel sleeves for joining or reinforcing pipe connections; stainless steel connectors; stainless steel nipples nozzles; steel pipe fittings; steel fittings used to redirect, connect, or seal piping in fluid or gas systems; stainless steel bellows; stainless steel ferrules; stainless steel wire; stainless steel stranded wire without fittings; steel roller chain; steel screws and bolts with larger diameters, including cap, hex, and heavy-duty fasteners for structural or demanding uses; steel screws and bolts with smaller diameters, such as socket, set, and machine screws used in precision or light-duty applications; steel nuts; steel inserts; steel standoffs; steel lock washers; steel spring washers; flat washers made of steel; round washers made of steel; split washers made of steel; steel retaining cotter pins; steel retaining pins; steel retaining rings; steel fasteners without threads; steel springs; steel compression springs; steel gas springs; steel plunger springs; steel wave springs; stainless steel blocks; stainless steel brackets; stainless steel bushings; stainless steel clamps; stainless steel collars; stainless steel plates; stainless steel rings; stainless steel seals; steel blocks; steel brackets; steel bushings; steel clamps; steel collars; steel plates; steel rings; steel seals; copper elbow fittings; copper tube fittings; copper washers; brass screws; copper nuts; copper screws; brass nuts; copper lugs; copper spacers; copper bushings used in mechanical or electrical assemblies; copper chambers designed for vacuum systems or specialized equipment; copper fingers used in mechanical or electrical assemblies; copper gaskets designed for vacuum systems or specialized equipment; copper retainers used in mechanical or electrical assemblies; copper seals designed for vacuum systems or specialized equipment; copper springs used in mechanical or electrical assemblies; nickel bellows assemblies; nickel gaskets; nickel pins; nickel screws; aluminum rods used for movement or positioning in mechanical assemblies; aluminum support pillars for machinery or equipment; aluminum support structural profiles for machinery or equipment; aluminum plates; aluminum piping; aluminum tubes; aluminum couplings; aluminum elbows; aluminum sleeves; aluminum tube fittings; aluminum fasteners for specialized or custom applications in metrology equipment; aluminum nails used in mechanical or electrical assemblies; aluminum nuts used in mechanical or electrical assemblies; aluminum screws used in mechanical or electrical assemblies; aluminum stand-offs used in mechanical or electrical assemblies; aluminum staples used in mechanical or electrical assemblies; aluminum tacks used in mechanical or electrical assemblies; aluminum caps; aluminum centering rings; aluminum covers; aluminum pins; aluminum plates; aluminum shims; aluminum shipping brackets; titanium indenter; titanium pins used in mechanical or electrical assemblies; titanium screws used in mechanical or electrical assemblies; beryllium sheet—used in the manufacturer of semiconductor manufacturing equipment; aluminum clamps; steel clamps; padlocks; door locks; hinges; casters; aluminum slides and handles used for doors, panels, or adjustable components in building installations; steel slides and handles used for doors, panels, or adjustable components in building installations; aluminum slides and fittings for furniture; steel slides and fittings for furniture; aluminum metal mounting fittings, brackets, latches, release mechanisms, and rollers; steel metal mounting fittings, brackets, latches, release mechanisms, and rollers; aluminum brackets; steel brackets; steel flexible tubing; hydraulic cylinders; air (pneumatic) engines; non-linear acting pneumatic engines; air cylinders for pneumatic engines; peristaltic pump assembly; chiller pump assembly; diaphragm pumps; peristaltic pumps; centrifugal pumps; flow pumps; peristaltic pumps assembly; vacuum pump; blowers; fan assemblies; air compressors; air compressors assemblies; fan controllers; chiller assemblies; chiller units; chiller service kits; heat exchanger assemblies; heat exchangers; thermal processing and temperature control systems; evaporators; fluid handling and thermal control hardware for heat exchange equipment; filters for liquids; air/dust filters; filter guards; filter cartridge; filter housing; heat sealer; chemical applicators; nozzles; winch used to position and install tools; hydraulic jacks and lifts; lift bracket and jack with dolly; lift and handling equipment; board assembly for printers; frames and shields for printers; board assemblies used in laser photoplotter; printhead assemblies; supports and holders used in printers; plasma asher used to remove organic materials; board assemblies for machine tools; board assemblies for automated optical shaping equipment; housings for machine tools; computer laptops; computer systems; computers; keyboards and computer peripherals; hard disk drives; optical drives; control and adapter units and modules and converters; peripheral hardware to interface with a computer; optical readers; rfid (radio frequency identification) readers; printed circuit assemblies and printed circuit board (pcb) assemblies; components designed to absorb vibration or control motion in equipment, such as dampeners; mechanical assemblies for precise movement or support in automation, such as air bearings; modules for cleaning machinery, including cleaning cassettes and bushings; modules for guiding machinery; pressure reducing valves; valve to direct or control oil or air; copper check valves; steel check valves; safety valves; manual valves made of copper for use in plumbing, fluid control, or equipment assemblies; manual valves made of fluorocarbons for specialized or chemical-resistant uses; manual valves made of iron for use in machinery, piping, or metrology systems; manual valves made of polyethers for specialized or chemical-resistant uses; manual valves made of polyvinyl chloride for specialized or chemical-resistant uses; plastic manual valve; manual valves made of steel for use in machinery, piping, or metrology systems; cylinders used in standard fluid control systems or equipment; silencers used in standard fluid control systems or equipment; valve manifolds used in standard fluid control systems or equipment; ball bearings; aluminum spherical roller bearing; steel spherical roller bearing; aluminum needle roller bearing; steel needle roller bearing; aluminum cylindrical roller bearings; steel cylindrical roller bearings; aluminum air bearings; steel air bearings; aluminum bearings; steel linear bearings; bearing rings; bushings; sleeves; spacers; washers; shaft bearing assemblies; aluminum housed bearings; steel housed bearings; aluminum bearing assemblies; steel bearing assemblies; aluminum housing bearings; steel housing bearings; aluminum shaft bearings; steel shaft bearings; aluminum slide bearing assembly; steel slide bearing assembly; ball screws; gears and gearing (power-transmission elements); roller screws; speed changer; pulley assemblies; shaft couplings; screw assemblies used for precision movement

in semiconductor processing; mechanical gaskets; mechanical seals; o-ring carrier; seal assemblies; plasma rf generator; plasma asher; plasma controller; purge kit; semiconductor sanitization units; wafer transfer robots; plastic and polymer mounting and support components for semiconductor processing; process chamber hardware; wafer alignment units; wafer holding devices for semiconductor processing; gas springs; aluminum structural supports for semiconductor processing equipment; steel structural supports for semiconductor processing equipment; optical isolation tables; shock absorbers; solenoid interlocks; support brackets and guide rails for machinery or equipment; electric motors designed for specialized or custom applications in machinery or technical systems; electric motors for high-capacity or demanding uses in industrial or scientific equipment; electric motors used in standard equipment or assemblies, including ac and dc types; universal ac/dc motors 37.5 w; universal ac/dc motors not exceeding 750 w; direct current (dc) motors with an output exceeding 750 watts (w) but not exceeding 75kw; single-phase ac motors; multi-phase alternating current (ac) motors with an output not exceeding 750w; multi-phase alternating current (ac) motors with an output exceeding 750 watts (w) but not exceeding 75 kw; generator; carbon brushes; gear heads for motors; electric motor coils; motor spindles; electric generating sets; lamp ballasts; electrical transformers for power supplies; transformers exceeding 1 kilovolt-ampere (kva) but not exceeding 16 kva; transformers greater than 16 kilovolt-ampere (kva) but not greater than 500 kva; power supplies—static converters; inductors; power control assemblies (pcas) for power suppliers; magnets; magnetic assemblies and tracks; magnetic brakes; magnetic clutches; magnetic switches; magnetic sensors; magnetic track; lithium batteries; lead-acid storage batteries; lithium-ion batteries; battery packs and cartridges; industrial oven used in metrology equipment; fusion splicer used in metrology equipment; heat sealer; resistive heating; heater elements; data communication interface convertors; multiplexers; network switches; network adapter; printed circuit assemblies for network communication equipment; network video recorder; magnetic tapes; unrecorded magnetic media; cd-roms (compact disc read only memory; optical storage units; solid-state storage devices; firmware; video splitter assembly; camera for metrology equipment visual; display monitors; flat panel displays and touchscreens for specialized or high-resolution applications in advanced systems; printed circuit assemblies for cameras and other imaging devices; smoke detectors and signaling equipment; light emitting diodes (leds) indicators; signal indicator panels; tantalum fixed capacitors; aluminum electrolytic capacitors; multi-layer ceramic dielectric fixed capacitors; plastic fixed dielectric capacitors; fixed electric capacitors; variable capacitors; film-type fixed attenuators; film-type fixed carbon resistors; fixed electrical resistors; surface mount chip resistors; potentiometers; thermistors; printed circuit boards; fuses; electrical connectors exceeding 1,000 volts; couplings; feedthrough; splices; terminals; glass cartridge fuses; surface mount fuses; automatic circuit breakers; surge suppressors; relays not exceeding 60 volts; relays exceeding 60 volts; electrical switches; lamp holders; coaxial connectors; electrical connector adapters and couplers; muli-contact connectors; panel connectors; printed circuit connectors; ribbon and flat cable connectors; optical fiber connectors; fuse holders; junction boxes; junctionblocks; terminal block connectors; motion controllers; multi-access controllers; power distribution assembly; power distribution board; programmable controllers; switching boards; adapter boards; surge protectors; electronic control modules for electronic equipment; interface boards for electronic equipment; printed circuit boards for electronic equipment; power control assemblies for electronic equipment; electronic sensors; tungsten halogen lamp; filament bulbs; fluorescent lamps; metal halide lamps; lamp assemblies; gas discharge arc lamps; infrared bulbs; infrared lamps; ultraviolet bulbs; ultraviolet lamps; light emitting diode (led) lamps; lamp cooling nozzles; lamp exhaust assemblies; lamp shutter assemblies; electronic actuators; color cathode-ray tubes; cathodes for electron source assembly; connectors for electron source assembly; electron source assembly; flanges for electron source assembly; schottky diodes; zener diodes; light emitting diodes (leds); photo sensors; controller integrated circuits; field-programmable gate arrays (fpgas); processor integrated circuits; memory integrated cards; memory integrated circuits; integrated circuit amplifiers; calibration chips; field-programmable gate arrays (fpgas); integrated circuit comparators; integrated circuit converters; integrated circuit digital transceivers; signal generator; timing generator; electronic devices amplifier assembly used in standard equipment or systems; electrical assemblies with independent functions for semiconductor processing; electronic devices encoder assembly used in standard equipment or systems; electronic devices interface board used in standard equipment or systems; electronic devices sensor assembly used in standard equipment or systems; electronic devices signal processor assembly used in standard equipment or systems; piezo drivers; tilt indication sensors; insulated electrical copper wire; insulated electrical wire of base metal (aluminum) conductors; coaxial cable; conductors for coaxial cable; cable assemblies with connectors for data, power, or networking in electronic devices and systems; cable assemblies with connectors for specialized or custom applications in equipment or installations; usb and ethernet cable for data, power, or networking in electronic devices and systems; cable assemblies for telecommunications and low-voltage control systems; copper conductor cables for distributing power or transmitting signals in industrial setups; flexible cables used for power or signal connections in machinery and equipment; specialty cables for custom installations, including fiber optic and robotics applications; cables and cable assemblies exceeding 1000 volts; cables and cable assemblies exceeding 1000 volts fitted with connectors; cables and cable assemblies exceeding 1000 volts of copper; fiber optic cables; thermal gaskets; ceramic insulator; electrical insulator; ceramic insulators; insulating rings; ceramic insulating sleeves; plastic insulating pins; plastic insulating spacers; plastic insulation jackets; plastic insulation sleeve; electromagnetic interference (emi) filters; line filters; radio frequency (rf) filters; optical fibers; polarizer assemblies; attenuators; beam splitters; optical filters; optical lenses; optical mirrors; prisms; objective lenses designed for use in cameras or video equipment; objective lenses intended for specialized or custom optical systems; optical filter; mirrors; mounted lenses; mounted optical assemblies; barrel telescope; acousto-optic modulator; optical microscopes; compound optical microscopes; adapters for microscopes; chambers for microscopes; holders for microscopes; diffraction apparatus; diode laser; attenuators; laser pump assemblies and shutters used in advanced optical or scientific devices; electrical laser rangefinder; earthquake detectors; geophone; sensors, motion;

syringes; slit assemblies and detector system kits designed for specialized scientific or technical devices; slit assemblies and detector system kits for advanced metrology or precision instrumentation; slit assemblies and detector system kits incorporated into custom or high-performance systems; spectrometer slit assembly; force gauges; tension gauge; pins used in machines for testing materials; plates used in machines for testing materials; styluses and tips used in testing materials; electric temperature sensor; pyrometers; devices for measuring or monitoring temperature and light levels in semiconductor processing; sensor module assembly for tracking humidity in equipment or facilities; sensors for tracking humidity in equipment or facilities; process monitoring wired modules; flow sensors; flow switches; flow meters; instruments for measuring or monitoring fluid flow, pressure, and level; level gauges; pressure transducers; vacuum pressure gauge; vacuum sensors; anemometers; flow meter; baffles; cable for water flow meter; filament elements for ion vacuum gauges; sensors for water flow meter; gas analysis and detection systems; spectrometers; polarimeters; power detectors; optical measuring instruments for laser power and light intensity; power meters; power sensors; pressure gauges; thickness detectors; vacuum gauges; bases for electrical analysis systems; clamps for electrical analysis systems; optical detectors for laser and light measurement; filters for electrical analysis systems; inserts for electrical analysis systems; polarizer for analysis systems; supports for electrical analysis systems; strobe light; dosimeter; ion gauge sensor; oscilloscopes; multimeter; electrical signal measuring instruments for use in metrology equipment; electrical resistance measuring instruments for use in metrology equipment; picoammeter; semiconductor wafer testing equipment; frequency counters; radio frequency (rf) benches; printed circuit board (pcb) amplifier; printed circuit board (pcb) filter; optical inspection systems for detecting wafer defects; autocollimator; differential interferometer; sensors used in controllers; contamination standards used to calibrate instruments for particle size and detection; dimensional standards used to calibrate optical and mechanical devices, with diameter sizes of 200mm and 300mm; electrical resistivity standards used to calibrate measuring devices, with diameters sizes of 76.2mm, 200mm, and 300mm; indium tin oxide (ito) sheet resistance standards (125mm x 125mm x .7mm) used to calibrate measuring devices; nitride film thickness standards used to calibrate optical thickness measurement instruments; silicon dioxide film thickness standards used to calibrate optical thickness measurement instruments; step height dimensional standards (25mm x 25mm x 3.0mm and 10mm x 10mm) used to calibrate optical and mechanical devices; surface topography dimensional standards (12mmx8mm) used to calibrate optical and mechanical devices; covers for optical inspection equipment; doors for optical inspection equipment; panels for optical inspection equipment; housings for optical inspection equipment; thermostats; manostats; pneumatic box; pneumatic plate; line conditioner; liquid controller; mass flow controller; pressure controller; pump controller; temperature controller; leakage sensor; interlock boards; stage for wafer defect review systems; metal shelf; wire rack; advanced light sources for semiconductor and optical systems; flat lighting panels sources for semiconductor and optical systems; integrated light units for precision machinery; led modules for precision machinery; lighting assemblies used in industrial equipment; lighting housings used in industrial equipment; led bars; halogen light source assemblies; tungsten light source assemblies; lamp window assembly made of glass; lamp mount assembly; and lamp housing (duty rate ranges from duty-free to 20%).

The request indicates that certain materials/components are subject to duties under section 122 of the Trade Act of 1974 (Section 122), section 232 of the Trade Expansion Act of 1962 (section 232), section 301 of the Trade Act of 1974 (section 301), or subject to a pending section 232 investigation of the Trade Expansion Act of 1962, as amended, depending on the country of origin. The applicable section 122, section 232, and section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is August 3, 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 John Frye at *John.Frye@trade.gov.*

Dated: June 17, 2026.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2026–12534 Filed 6–22–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–49–2026]

Production Activity Not Authorized; Foreign-Trade Zone (FTZ) 75; Catalina Components, Inc.; (Vehicle Parts); Chandler, Arizona

On December 4, 2025, Catalina Components, Inc. submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 75, in Chandler, Arizona.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (90 FR 57499, December 11, 2025). On June 18, 2026, the applicant was notified of the FTZ Board's decision that further review of the activity is warranted. The production activity described in the notification was not authorized. If the applicant wishes to seek authorization for this activity, it will need to submit an application for production authority, pursuant to section 400.23.

Dated: June 18, 2026.

Juanita Chen,

Acting Executive Secretary.

[FR Doc. 2026–12573 Filed 6–22–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–552–829]

Passenger Vehicle and Light Truck Tires From the Socialist Republic of Vietnam: Preliminary Results 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 producers and exporters of passenger vehicle and light truck tires (PVLT tires) from the Socialist Republic of Vietnam (Vietnam). The period of review (POR) is January 1, 2024, through December 31, 2024. Interested parties are invited

to comment on these preliminary results.

DATES: Applicable June 23, 2026.

FOR FURTHER INFORMATION CONTACT: Kayden Jenson, 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) 482–0967.

SUPPLEMENTARY INFORMATION:

Background

On August 22, 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 (CVD) order on PVLT tires from Vietnam.[1] On September 15, 2025, Commerce selected Kenda Rubber (Vietnam) Co., Ltd. (Kenda) and Kumho Tires (Vietnam) Co., Ltd. (KTV) as the mandatory respondents in this review.[2] 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] Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.[4] On June 2, 2026, we extended the deadline for the preliminary results of this review until June 16, 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 included in the Preliminary Decision Memorandum is provided as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Scope of the Order

The product covered by the *Order* is PVLT tires from Vietnam. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Intent To Rescind Administrative Review, in Part

It is Commerce's practice to rescind an administrative review of a CVD order, pursuant to 19 CFR 351.213(d)(3), when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended. Normally, upon completion of an administrative review, the suspended entries are liquidated at the CVD assessment rate calculated for the POR.[7] Therefore, for an administrative review of a company 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 assessment rate calculated for the POR.[8]

According to the CBP import data on the record, American Kenda Rubber Industrial Co. Ltd. and Kumho Tire Co., Inc, two companies subject to this review, did not have reviewable entries of subject merchandise during the POR for which liquidation is suspended.[9] Accordingly, in the absence of reviewable, suspended entries of subject merchandise during the POR, we intend to rescind this administrative review with respect to these two companies, in accordance with 19 CFR 351.213(d)(3).

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs preliminarily found to be countervailable, we preliminarily determine that there is a countervailable subsidy, *i.e.,* a financial contribution from an authority that gives rise to a benefit to the recipient and that the subsidy is specific.[10] For a full description of the methodology underlying our preliminary conclusions, including our reliance, in part, on facts available with adverse inferences pursuant to sections 776(a) and (b) of the Act, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following net countervailable subsidy rates exist for the POR, January 1, 2024, through December 31, 2024:

Company	Subsidy rate (percent *ad valorem*)
Kenda Rubber (Vietnam) Co., Ltd	3.01
Kumho Tire (Vietnam) Co., Ltd	5.84

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.[11] 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.[12] 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.

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 90 FR 41043 (August 22, 2025); *see also Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: Countervailing Duty Order,* 86 FR 38013 (July 19, 2021) (*Order*).

[2] *See* Memorandum, ''Countervailing Duty Administrative Review of Passenger Vehicle and Light Truck Tires from Vietnam: Respondent Selection; 2024,'' dated September 15, 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 Countervailing Duty Administrative Review,'' dated June 2, 2024.

[6] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Administrative Review of the Countervailing Duty Order on Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam; 2024,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[7] *See* 19 CFR 351.212(b)(2).

[8] *See* 19 CFR 351.213(d)(3).

[9] *See* Memorandum, ''U.S. Customs and Border Protection Data Release,'' dated August 26, 2025.

[10] *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.

[11] *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*).

[12] 12 *See* 19 CFR 351.309(c)(2) and (d)(2).

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.[13] 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).[14]

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 whether any participant is a foreign national; 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.[15]

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, countervailing duties on all appropriate entries covered by this review.

For the companies for which Commerce intends to rescind, Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of the final results in the **Federal Register**. Commerce intends to issue assessment instructions to CBP regarding Kenda and KTV 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 companies listed above will be equal to the company-specific estimated individual countervailable subsidy rates determined in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) if both the producer and exporter of the subject merchandise have company-specific estimated subsidy rates assigned, and their rates differ, then the applicable cash deposit rate will be the higher of these two rates; (3) if either the producer or the exporter, but not both, of the subject merchandise has a company-specific estimated subsidy rate assigned, the applicable cash deposit rate will be that company's company-specific rate; and (4) the cash deposit rate for all other producers and exporters will be continue to be 6.46 percent, the all-others subsidy rate established in the investigation.[16] 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: June 16, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Intent to Rescind the Administrative Review, in Part
V. Subsidy Valuation
VI. Benchmarks and Interest Rates
VII. Analysis of Programs
VIII. Recommendation

[FR Doc. 2026–12572 Filed 6–22–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–010, A–583–853, C–570–011]

Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China and Taiwan: Continuation of Antidumping Duty Orders and Countervailing Duty Order

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) that revocation of the antidumping duty (AD) and countervailing duty (CVD) orders on certain crystalline silicon photovoltaic products (solar product) from People's Republic of China (China) and the AD order on solar products from Taiwan would likely lead to the continuation or recurrence of dumping, and countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of these AD orders and CVD order.

DATES: Applicable June 11, 2026.

FOR FURTHER INFORMATION CONTACT: David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, 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 February 18, 2015, Commerce published the *Orders* in the **Federal**

[13] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[14] *See APO and Service Procedures.*

[15] *See* 19 CFR 351.310(d).

[16] *See Order,* 86 FR at 38014.

Register.[1] On August 8, 2025, the ITC instituted,[2] and Commerce initiated,[3] the second sunset review of the *Orders,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). As a result of its review, Commerce determined that revocation of the *Orders* would likely lead to a 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.[4]

On June 11, 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.[5]

Scope of the Orders

China

The merchandise covered by the *China Order* is modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. For purposes of the *China AD Order* and *China CVD Order,* subject merchandise includes modules, laminates and/or panels assembled in China consisting of crystalline silicon photovoltaic cells produced in a customs territory other than China.

Subject merchandise includes modules, laminates and/or panels assembled in China consisting of crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Excluded from the scope of the *China AD Order* and *China CVD Order* are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of the *China AD Order* and *China CVD Order* are modules, laminates and/or panels assembled in China, consisting of crystalline silicon photovoltaic cells, not exceeding 10,000 mm2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cells. Where more than one module, laminate and/or panel is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all modules, laminates and/or panels that are integrated into the consumer good.

Further, also excluded from the scope of the *China AD Order* and *China CVD Order* are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, laminates and/or panels, from China.

Additionally, excluded from the scope of the *China AD Order* and *China CVD Order* are solar panels that are: (1) less than 300,000 mm2 in surface area; (2) less than 27.1 watts in power; (3) coated across their entire surface with a polyurethane doming resin; and (4) joined to a battery charging and maintaining unit (which is an acrylonitrile butadiene styrene (ABS) box that incorporates a light emitting diode (LED) by coated wires that include a connector to permit the incorporation of an extension cable. The battery charging and maintaining unit utilizes high-frequency triangular pulse waveforms designed to maintain and extend the life of batteries through the reduction of lead sulfate crystals. The above-described battery charging and maintaining unit is currently available under the registered trademark ''SolarPulse.''

Also excluded from the scope of the *China AD Order* and *China CVD Order* are off-grid crystalline silicon photovoltaic panels without a glass cover with the following characteristics: (1) total power output of 500 watts or less per panel; (2) maximum surface area of 8,000 cm2 per panel; (3) unit does not include a built-in inverter; (4) unit has visible parallel grid collector metallic wire lines every 2–40 millimeters across each solar panel (depending on model); (5) solar cells are encased in laminated frosted PET material without stitching; (6) the panel is encased in polyester fabric with visible stitching which includes a Velcro-type storage pocket and unit closure, or encased within a Neoprene clamshell (depending on model); and (7) includes LED indicator.

Additionally excluded from the scope of the *China AD Order* and *China CVD Order* are off-grid small portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics: (1) a total power output of 200 watts or less per panel; (2) a maximum surface area of 16,000 cm2 per panel; (3) no built-in inverter; (4) an integrated handle or a handle attached to the package for ease of carry; (5) one or more integrated kickstands for easy installation or angle adjustment; and (6) a wire of not less than 3 meters either permanently connected or attached to the package that terminates in an 8mm diameter male barrel connector.

Also excluded from the scope of the *China AD Order* and *China CVD Order* are off-grid CSPV panels in rigid form, with or without a glass cover, permanently attached to an aluminum extrusion that is an integral component of an automation device that controls natural light, whether or not assembled into a fully completed automation device that controls natural light, with the following characteristics: (1) A total power output of 20 watts or less per panel; (2) A maximum surface area of 1,000 cm2 per panel; (3) Does not include a built-in inverter for powering third party devices.

Merchandise covered by the *China AD Order* and *China CVD Order* is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6015, 8541.40.6020, 8541.40.6030, 8541.40.6035 and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the

[1] *See Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 80 FR 8592 (February 18, 2015) (*China AD Order*)*; Certain Crystalline Silicon Photovoltaic Products from Taiwan: Antidumping Duty Order,* 80 FR 8596 (February 18, 2015) (*Taiwan AD Order*), and *Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 80 FR 8592 (February 18, 2015) (*China CVD Order*) (collectively, *Orders*).

[2] *See Certain Crystalline Silicon Photovoltaic Products from China and Taiwan; Institution of Five-Year Reviews,* 90 FR 36184 (August 1, 2025).

[3] *See Initiation of Five-Year (Sunset) Reviews,* 90 FR 36139 (August 1, 2025).

[4] *See Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and Taiwan: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders,* 91 FR 5910 (February 10, 2026), and *Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order,* 91 FR 5900 (February 10, 2026).

[5] *See Certain Crystalline Silicon Photovoltaic Products from China and Taiwan; Determinations,* 91 FR 35554 (June 11, 2026).

China AD Order and *China CVD Order* is dispositive.

Taiwan

The merchandise covered by the *Taiwan AD Order* is crystalline silicon photovoltaic cells, and modules, laminates, and/or panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials.

Subject merchandise includes crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Modules, laminates, and panels produced in a third-country from cells produced in Taiwan are covered by the Taiwan Order. However, modules, laminates, and panels produced in Taiwan from cells produced in a third-country are not covered by the *Taiwan AD Order.*

Excluded from the scope of the *Taiwan AD Order* are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of the *Taiwan AD Order* are crystalline silicon photovoltaic cells, not exceeding 10,000mm2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cells. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Further, also excluded from the scope of the *Taiwan AD Order* are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from China.

Also excluded from the scope of the *Taiwan AD Order* are modules, laminates, and panels produced in China from crystalline silicon photovoltaic cells produced in Taiwan that are covered by an existing proceeding on such modules, laminates, and panels from China. Additionally, excluded from the scope of the Taiwan Order are solar panels that are: (1) less than 300,000mm2 in surface area; (2) less than 27.1 watts in power; (3) coated across their entire surface with a polyurethane doming resin; and (4) joined to a battery charging and maintaining unit (which is an acrylonitrile butadiene styrene (ABS) box that incorporates a light emitting diode (LED) by coated wires that include a connector to permit the incorporation of an extension cable. The battery charging and maintaining unit utilizes high-frequency triangular pulse waveforms designed to maintain and extend the life of batteries through the reduction of lead sulfate crystals. The above-described battery charging and maintaining unit is currently available under the registered trademark ''SolarPulse.''

Also excluded from the scope of the *Taiwan AD Order* are off-grid CSPV panels in rigid form, with or without a glass cover, permanently attached to an aluminum extrusion that is an integral component of an automation device that controls natural light, whether or not assembled into a fully completed automation device that controls natural light, with the following characteristics: (1) a total power output of 20 watts or less per panel; (2) A maximum surface area of 1,000 cm2 per panel; (3) Does not include a built-in inverter for powering third party devices.

Merchandise covered by the *Taiwan AD Order* is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030, and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the *Taiwan AD Order* 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 and countervailable subsidies, as applicable, 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 11, 2026.[6]

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 17, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–12571 Filed 6–22–26; 8:45 am]

BILLING CODE 3510–DS–P

[6] *Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–943, C–570–944]

Oil Country Tubular Goods From the People's Republic of China: Continuation of Antidumping Duty Order and Countervailing Duty Order

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) that revocation of the antidumping duty (AD) order and countervailing duty (CVD) order on oil country tubular goods (OCTG) from the People's Republic of China (China) would likely lead to the continuation or recurrence of dumping, and 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 May 19, 2026.

FOR FURTHER INFORMATION CONTACT: David De Falco, Trade Agreement 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 May 21, 2010, and January 20, 2010, respectively, Commerce published in the **Federal Register** the AD and CVD orders on OCTG from China.[1] On December 1, 2025, the ITC instituted,[2] and Commerce initiated,[3] the third sunset review of 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.[4]

On May 19, 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.[5]

Scope of the Orders

The scope of the *Orders* consists of OCTG, which are hollow steel products of circular cross section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.,* whether or not plain end, threaded, or threaded and coupled) whether or not conforming to API or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the *Orders* also covers OCTG coupling stock. Excluded from the scope of the *Orders* are casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise subject to the *Orders* is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The OCTG coupling stock covered by the *Orders* may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, and 7304.59.80.80. The HTSUS subheadings are provided for convenience and customs purposes only. The written description of the scope of the *Orders* 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 May 19, 2026.[6] 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 18, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–12570 Filed 6–22–26; 8:45 am]

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[1] *See Certain Oil Country Tubular Goods from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 75 FR 28551 (May 21, 2010) and *Certain Oil Country Tubular Goods from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 75 FR 3203 (January 20, 2010) (collectively, the *Orders*).

[2] *See Oil Country Tubular Goods from China; Institution of Five-Year Reviews,* 90 FR 55167 (December 1, 2025).

[3] *See Initiation of Five-Year (Sunset) Reviews,* 90 FR 55086 (December 1, 2025).

[4] *See Certain Oil Country Tubular Goods from the People's Republic of China: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order,* 91 FR 20092 (April 15, 2026), and accompanying Issues and Decision Memorandum (IDM); and *Oil Country Tubular Goods from the People's Republic of China: Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order,* 91 FR 20104 (April 15, 2026), and accompanying IDM.

[5] *See Oil Country Tubular Goods from China; Determinations,* 91 FR 29168 (May 19, 2026) (*ITC Final Determination*).

[6] *See ITC Final Determination.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–874]

Certain Steel Nails From the Republic of Korea: 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) finds that certain producers/exporters of certain steel nails (steel nails) from the Republic of Korea (Korea) subject to this administrative review made sales of subject merchandise at less than normal value during the period of review (POR), July 1, 2023, through June 30, 2024.

DATES: Applicable June 23, 2026.

FOR FURTHER INFORMATION CONTACT: Allison Hollander, 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) 482–2805.

SUPPLEMENTARY INFORMATION:

Background

On January 2, 2026, Commerce published the *Preliminary Results.*[1] On April 27, 2026, Commerce extended the deadline for the final results of the review by 7 days.[2] Finally, on May 7, 2026, Commerce extended the deadline for the final results of this review by 35 days.[3] Accordingly, the deadline for the final results is June 15, 2026. For a complete description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[4] The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order[5]

The product covered by the *Order* is steel nails from Korea. For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.

Analysis of the Comments Received

All issues raised in the case and rebuttal briefs are listed in Appendix I of this notice and addressed in the Issues and Decision Memorandum.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we made certain changes to the margin calculations for Je-il Co., Ltd. (Je-il) and Korea Wire Co., Ltd. (KOWIRE).[6]

Rate for Respondents Not Selected for Individual Examination

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 weighted-average dumping margin for respondents that were not individually examined in an administrative review. Section 735(c)(5)(A) of the Act provides that the all-others rate should be calculated by weight averaging the weighted-average dumping margins determined for individually examined respondents, excluding rates that are zero, *de minimis,* or based entirely on facts available.

We have assigned a dumping margin to the companies not selected for individual examination in this review based on the calculated rates of Je-il and KOWIRE, which are not zero, *de minimis,* or based entirely on facts otherwise available. *See* Appendix II.

Final Results of Review

As a result of this review, we determine the following estimated weighted-average dumping margins for the period July 1, 2023, through June 30, 2024:

Producer/exporter	Weighted-average dumping margin (percent)
Je-il Co., Ltd	1.76
Korea Wire Co., Ltd	0.61
Companies Not Selected for Individual Examination[7]	1.13

Disclosure

Commerce intends to disclose to interested parties the calculations performed for Je-il and KOWIRE in connection with these final results of review within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Assessment Rate

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise for in accordance with the final results of this review.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication date 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).

Because KOWIRE and Je-il reported the entered value of its U.S. sales, we calculated importer-specific *ad valorem* assessment rates based on the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of such sales.[8] Where an importer–specific *ad valorem* assessment rate is zero or *de minimis,* or a respondent's weighted-average dumping margin is zero or *de minimis,* Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[9]

Commerce's ''automatic assessment'' practice will apply to entries of subject merchandise during the POR produced by Je-il or KOWIRE for which the reviewed companies did not know that the merchandise they sold to the intermediary (*i.e.,* a reseller, trading company, or exporter) was destined for the United States.[10] In such instances,

[1] *See Certain Steel Nails from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2023–2024,* 91 FR 120 (January 2, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Extension of Deadline for Final Results of 2023–2024 Antidumping Duty Administrative Review,'' dated April 27, 2026.

[3] *See* Memorandum, ''Extension of Deadline for Final Results of 2023–2024 Antidumping Duty Administrative Review,'' dated May 7, 2026.

[4] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Certain Steel Nails from the Republic of Korea; 2023–2024,'' dated concurrently with, and herby adopted by, this notice (Issues and Decision Memorandum).

[5] *See Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Antidumping Duty Orders,* 80 FR 39994 (July 13, 2015) (*Order*).

[6] For a full description of changes, *see* Issues and Decision Memorandum.

[7] *See* Appendix II.

[8] *See* 19 CFR 351.212(b)(1).

[9] *See* 19 CFR 351.212(c)(2).

[10] For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings:*

we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[11]

For the companies not selected for individual examination, we assigned an assessment rate based on the cash deposit rates calculated for KOWIRE and Je-il, as described in the ''Rate for Respondents Not Selected for Individual Examination'' section above.[12]

Cash Deposit Instructions

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 in the **Federal Register** of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies listed above will be equal to the weighted-average dumping margin established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated or reviewed companies not covered in this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 11.80 percent, the all-others rate established in the LTFV investigation.[13] These 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 occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to 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 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.

Notification of Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: June 15, 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 Issues and Decision Memorandum

I. Summary
II. Background
III. Changes Since the *Preliminary Results*
IV. Scope of the *Order*
V. Discussion of the Issues
  Comment 1: Whether to Apply Adverse Facts Available (AFA) to Je-il's Home Market Sales
  Comment 2: Whether to Apply Partial AFA to Je-il's Home Market Credit Expenses for Certain Sales
  Comment 3: Error in Je-il's Margin Program
  Comment 4: Je-il and KOWIRE's Scrap Offset
  Comment 5: KOWIRE's Weight Basis
  Comment 6: Whether to Apply AFA to KOWIRE's Home Market Sales
  Comment 7: Error in KOWIRE's Home Market and Margin Programs
VI. Recommendation

Appendix II

Companies Not Selected for Individual Examination

1. Daejin Steel Company
2. Hanmi Staple Co., Ltd.
3. Nailtech Co., Ltd.
4. Koram Inc.
5. Peace Industries Ltd. Korea

[FR Doc. 2026–12569 Filed 6–22–26; 8:45 am]

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Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).

[11] *See Order,* 81 FR at 64434.

[12] *See* section 735(c)(5)(A) of the Act.

[13] *See Order,* 80 FR at 39996.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–820]

Silicon Metal From Malaysia: 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 silicon metal from Malaysia was not sold in the United States at less than normal value during the period of review (POR), August 1, 2023, through July 31, 2024.

DATES: Applicable June 23, 2026.

FOR FURTHER INFORMATION CONTACT: Braeden Lowe, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–9124.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 2026, Commerce published in the **Federal Register** the *Preliminary Results* of the 2023–2024 administrative review of the antidumping duty order on silicon metal from Malaysia.[1] We invited parties to comment on the *Preliminary Results* but no interested parties submitted comments. Accordingly, the final results of this review remain unchanged from the *Preliminary Results.* Because Commerce received no comments on the *Preliminary Results,* we have not modified our analysis, and no decision memorandum accompanies this notice. We are, hereby, adopting the *Preliminary Results* as the final results of this review. Commerce conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by this *Order* is all forms and sizes of silicon metal, including silicon metal powder. For a complete description of the scope of the *Order, see* the *Preliminary Results.*[2]

[1] *See Silicon Metal from Malaysia: Preliminary Results of Antidumping Duty Administrative Review; 2023–2024,* 91 FR 5888 (February 10, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM); *see also Silicon Metal from Malaysia: Antidumping Duty Order,* 86 FR 46677 (August 19, 2021) (*Order*).

[2] *See Preliminary Results* PDM.

Final Results of Review

Commerce determines that the following weighted-average dumping margin exists for the period August 1, 2023, through July 31, 2024:

Exporter/producer	Weighted-average dumping margin (percent)
PMB Silicon Sdn. Bhd	0.00

Disclosure

Because Commerce received no comments on the *Preliminary Results,* we have not modified our analysis and no decision memorandum accompanies this **Federal Register** notice. We are adopting the *Preliminary Results* as the final results of this review. Consequently, there are no new calculations to disclose in accordance with 19 CFR 351.224(b) for these final results.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b)(1), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. Where the respondent's weighted-average dumping margin is either zero or *de minimis* (*i.e.,* less than 0.5 percent), we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. Accordingly, because PMB Silicon's weighted-average dumping margin is zero percent, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For entries of subject merchandise during the POR produced by PMB Silicon Sdn. Bhd. (PMB Silicon) for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[3]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the 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 rate for PMB Silicon will be the rates established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the producer 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 12.27 percent, the all-others rate established in the LTFV investigation.[4] 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 review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (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/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 10, 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. 2026–12608 Filed 6–22–26; 8:45 am]

BILLING CODE 3510–DS–P

[3] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[4] *See Silicon Metal from Malaysia: Final Affirmative Determination of Sales at Less Than Fair Value,* 88 FR 33224 (June 24, 2021).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–839]

Carbazole Violet Pigment 23 From India: Preliminary Results, Intent To Rescind, and Rescission, in Part of Countervailing Duty Administrative Review; 2023

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 producers and exporters of Carbazole Violet Pigment 23 (CVP 23) from India. The period of review (POR) is January 1, 2023, through December 31, 2023. In addition, Commerce is rescinding this review, in part, with respect to one company, and further, Commerce, is notifying parties of its intent to rescind this review with respect to one other company. Interested parties are invited to comment on these preliminary results.

DATES: Applicable June 23, 2026.

FOR FURTHER INFORMATION CONTACT: Daniel Alexander, AD/CVD Operations, Office Roman Numeral, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4313.

SUPPLEMENTARY INFORMATION:

Background

On January 27, 2025, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the countervailing duty order on CVP from

India.[1] On April 1, 2025, Commerce selected Meghmani Pigments (Meghmani) and Navpad Pigments Private Limited (Navpad) as the mandatory respondents in this review.[2] On April 26, 2025, Meghmani timely withdrew its request for review.[3]

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.[4] Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.[5] On February 9, 2026, we extended the deadline for the preliminary results of this review until June 8, 2026.[6]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[7] A list of topics included in the Preliminary Decision Memorandum is provided as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Scope of the Order

The product covered by the *Order* is CVP 23 from India. 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)(1), Commerce will rescind an administrative review, in whole or in part, if all parties that requested the review withdraw their requests within 90 days of the date of publication of the notice of initiation. As noted above, Commerce received timely-filed withdrawal requests with respect to Meghmani, and no other parties requested a review of this company. Therefore, we are rescinding this administrative review with respect to these companies, pursuant to 19 CFR 351.213(d)(1).

Intent To Rescind Administrative Review, In Part

It is Commerce's practice to rescind an administrative review of a countervailing duty order, pursuant to 19 CFR 351.213(d)(3), when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended. 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 of a company 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 assessment rate calculated for the POR.[9]

According to the CBP import data on the record, the following company subject to this review did not have reviewable entries of subject merchandise during the POR for which liquidation is suspended: Sudarshan Chemical Industries Limited (SCIL).[10] Accordingly, in the absence of reviewable, suspended entries of subject merchandise during the POR, we intend to rescind this administrative review with respect to this company, 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 rates exist for the POR, January 1, 2023, through December 31, 2023:

Company	Subsidy rate (percent *ad valorem*)
Navpad Pigments Private Limited	3.38

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).

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice.[12] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[13] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; 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

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 90 FR 8187 (January 27, 2025) (*Initiation Notice*); *see also Notice of Countervailing Duty Order: Carbazole Violet Pigment 23 from India,* 69 FR 77995 (December 29, 2004) (*Order*).

[2] *See* Memorandum, ''Respondent Selection,'' dated April 1, 2025.

[3] *See* Meghmani's Letter, ''Withdrawal Request for Administrative Review,'' dated April 26, 2025.

[4] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[5] *See* Memorandum, ''Tolling of all Case Deadlines,'' dated November 24, 2025.

[6] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review,'' dated February 9, 2026.

[7] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Administrative Review of the Countervailing Duty Order on Carbazole Violet Pigment from India; 2023,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[8] *See* 19 CFR 351.212(b)(2).

[9] *See* 19 CFR 351.213(d)(3).

[10] *See* Memorandum, ''Release of U.S. Customs and Border Protection Entry Data,'' dated February 24, 2025.

[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] *See* 19 CFR 351.309.

[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).

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 whether any participants are foreign nationals; 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 U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review.

Because we have rescinded Meghmani from review, as discussed above, 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**.

For the company we intend to rescind from review, SCIL, if we determine in the final results that rescission is still warranted, 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 the final results in the **Federal Register**.

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(ies) listed above will be equal to the company-specific estimated individual countervailable subsidy rates determined in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) if both the producer and exporter of the subject merchandise have company-specific estimated subsidy rates assigned, and their rates differ, then the applicable cash deposit rate will be the higher of these two rates; (3) if either the producer or the exporter, but not both, of the subject merchandise has a company-specific estimated subsidy rate assigned, the applicable cash deposit rate will be that company's company-specific rate; and (4) the cash deposit rate for all other producers and exporters will be continue to be 20.55 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: June 8, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Diversification of India's Economy
V. Subsidies Valuation
VI. Benchmarks and Interest Rates
VII. Analysis of Programs
VIII. Recommendation

[FR Doc. 2026–12513 Filed 6–22–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–839]

Steel Propane Cylinders From Thailand: 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) finds that Sahamitr Pressure Container Public Company Limited (also known as Sahamitr Pressure Container Plc.) (SMPC), the sole producer or exporter subject to this administrative review, made sales of subject merchandise in the United States at prices below normal value during the period of review (POR) August 1, 2023, through July 31, 2024.

DATES: Applicable June 23, 2026.

FOR FURTHER INFORMATION CONTACT: Samuel Brummitt, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7851.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 2026, Commerce published the preliminary results of the 2023–2024 administrative review of the antidumping duty order on steel propane cylinders from Thailand in the **Federal Register** and invited interested parties to comment.[1] On June 10, 2026,

[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 Order,* 69 FR at 77996.

[1] *See Steel Propane Cylinders from Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2023–2024,* 91 FR 5901 (February 10, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

we extended the deadline for these final results to June 17, 2026.[2]

For a complete description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[3] 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 complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order [4]

The products covered by the *Order* are steel propane cylinders from Thailand. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached as an appendix to this notice.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties, we made certain adjustments to the margin calculations for these final results, as detailed in the Issues and Decision Memorandum.

Final Results of the Review

As a result of this review, we determine that the following weighted-average dumping margin exists for the period August 1, 2023, through July 31, 2024:

Exporter/producer	Weighted-average dumping margin (percent)
Sahamitr Pressure Container Public Company Limited ...	1.01

Disclosure

Commerce intends to disclose the calculations performed to interested parties for these final results within five days after public announcement of the final results or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register,** in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, 19 CFR 351.213, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. Pursuant to 19 CFR 351.212(b)(1), where the respondent reported the entered value of its U.S. sales, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales for which entered value was reported. Where the respondent did not report entered value, we calculated a per-unit assessment rate for each importer by dividing the total amount of dumping calculated for the examined sales made to that importer by the total quantity 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 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 SMPC for which the company 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 such entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[6]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication). The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise under review and for future cash deposits of estimated antidumping duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication in the **Federal Register** of these final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for SMPC will be equal to the weighted-average dumping margin established in these final results of this administrative review; (2) for merchandise exported by companies not covered in this review but covered in a prior completed segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, or the less-than-fair-value investigation, but the producer is, then the cash deposit rate will be the cash deposit rate established for the most recently completed segment for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers and exporters will continue to be the all-others rate (*i.e.,* 10.77 percent *ad valorem*).[7] 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

[2] *See* Memorandum, ''Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated June 10, 2026.

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Steel Propane Cylinders from Thailand; 2023–2024,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *See Steel Propane Cylinders from the People's Republic of China and Thailand: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Orders,* 84 FR 41703 (August 15, 2019) (*Order*).

[5] *See* Issues and Decision Memorandum at 3–4.

[6] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[7] *See Order.*

during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is being issued and published in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: June 17, 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. Discussion of the Issues
Comment 1: Whether To Apply a Cost-Based Particular Market Situation Adjustment for Exemption of Antidumping Duties
Comment 2: Whether to Revise SMPC's Billing Adjustments in the Comparison Market Program Home
V. Recommendation

[FR Doc. 2026–12609 Filed 6–22–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF782]

Marine Mammals and Endangered Species

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

ACTION: Notice; issuance of permits, including an amendment.

SUMMARY: Notice is hereby given that permits have been issued under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA), as applicable.

ADDRESSES: The permits and related documents are available for review upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore (File No. 29433) or Sara Young (File No. 25770); at (301) 427–8401.

SUPPLEMENTARY INFORMATION: The requested permits have been issued under the MMPA of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), as applicable. Notices were published in the **Federal Register** on the dates listed below that requests had been submitted. To locate the **Federal Register** notice that announced our receipt of the application and a complete description of the activities, go to *https://www.federalregister.gov* and search for the file number provided in table 1 below.

TABLE 1—ISSUED PERMITS

File No.	Version No.	RTID	Applicant	Previous **Federal Register** notice	Issuance date
25770	01	0648–XB639	Institute of Marine Sciences, University of California at Santa Cruz, Santa Cruz, CA 95064 (Responsible Party: Daniel Costa, Ph.D.).	86 FR 70828, December 13, 2021	May 18, 2026.
29433	N/A	0648–XF565	University of Alaska Museum of the North, 907 Yukon Drive, Fairbanks, AK 99775 (Responsible Party: Link Olson, Ph.D.).	91 FR 12759, March 17, 2026	May 11, 2026.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

As required by the ESA, as applicable, issuance was based on a finding that such permits: (1) were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: June 17, 2026.

Larissa Plants,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–12516 Filed 6–22–26; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Draft FY 2026–2030 Strategic Plan for the U.S. AbilityOne Commission

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Notice of availability; request for public comments.

SUMMARY: The Committee for Purchase From People Who Are Blind or Severely Disabled, operating as the U.S. AbilityOne Commission, is seeking public comments on its draft strategic plan for FY 2026–2030.

DATES: Comments must be received on or before July 22, 2026.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 250 E Street SW, Suite 3100, Washington, DC 20024.

Submit written comments, identified by Docket ID No. CPPBSD–2026–0034, only through the Federal eRulemaking Portal: *http://www.regulations.gov/.* To

locate the strategic plan, use Docket ID No. CPPBSD–2026–0034 or key words such as ''strategic plan,'' ''Committee for Purchase,'' or ''AbilityOne'' to search documents accepting comments. Follow the online instructions for submitting comments. Please be advised that comments received will be posted without change to *http://www.regulations.gov/,* including any personal information provided. Once submitted, comments cannot be edited or withdrawn.

FOR FURTHER INFORMATION CONTACT: For further information contact: Angela Phifer, (703) 798–5873, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Committee for Purchase From People Who Are Blind or Severely Disabled operates as the U.S. AbilityOne Commission. It is the independent Federal agency that oversees the AbilityOne Program, which provides employment opportunities through Federal contracts for people who are blind or have significant disabilities in the manufacture and delivery of products and services to the Federal Government. The Javits-Wagner-O'Day Act (41 U.S.C. chapter 85) authorizes the contracts.

The Government Performance and Results Act (GPRA) of 1993 (Pub. L. 103–62), as amended by the GPRA Modernization Act of 2010 (Pub. L. 111–352), requires Federal agencies to update their strategic plans each presidential term and solicit input from stakeholders.

The draft FY 2026–2030 strategic plan includes three strategic objectives:

(1) Increase workforce participation by Americans who are blind or have significant disabilities.

(2) Drive value, efficiency, and accountability across the AbilityOne Program.

(3) Engage in partnerships to expand employment opportunities for Americans who are blind or have significant disabilities within and beyond the AbilityOne Program.

The plan also includes outcome goals, strategies, and performance measures to evaluate success, demonstrate impact, and ensure transparency.

The Commission will consider all comments received during the comment period. The Commission may use some comments to amend or modify the strategic plan, but commenters should note that this posting and any public comments are not subject to the Administrative Procedure Act (5 U.S.C. 551–559) and its implementing regulations.

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2026–12601 Filed 6–22–26; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Record of Decision for the Supplemental Environmental Impact Statement Expansion of the Foreign Military Sales F–35 Pilot Training Center at Ebbing Air National Guard Base in Fort Smith, Arkansas

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Notice of record of decision.

SUMMARY: On June 9, 2026, the Department of the Air Force (DAF) signed the Record of Decision (ROD) for the Final Supplemental Environmental Impact Statement (EIS) for Expansion of the Foreign Military Sales (FMS) F–35 Pilot Training Center (PTC) at Ebbing Air National Guard Base in Fort Smith, Arkansas.

FOR FURTHER INFORMATION CONTACT: Mr. Austin Naranjo, NEPA Project Manager, by email at *austin.naranjo.1@us.af.mil* or by phone at 210–652–4400.

SUPPLEMENTARY INFORMATION: The DAF will implement its Proposed Action to expand the FMS PTC mission at Ebbing Field. The expansion of the mission includes beddown of an additional 12 F–35 Primary Aerospace Vehicles. The DAF has selected to expand the FMS PTC mission at Ebbing ANG Base to satisfy agreements with FMS nation customers while continuing to meet the DAF's overall purpose to continue the permanent FMS PTC pilot training mission. Additionally, the DAF has selected to construct a vertical landing pad (VLP) at the West VLP Site. The Final EIS was made available to the public on April 17, 2026 through the project website (*www.FMSPTCEIS.com*), and a Notice of Availability was published in the **Federal Register** (Volume 91, Number 74, Page 20653) on April 17, 2026.

The DAF decision documented in the ROD was based on matters discussed in the Final EIS, inputs from the public and regulatory agencies, and other relevant factors. Authority for this notice is 42 U.S.C. 4321, *et seq.* and Department of Defense National Environmental Policy Act Implementing Procedures.

Crystle C. Poge,

Air Force Federal Register Liaison Officer.

[FR Doc. 2026–12550 Filed 6–22–26; 8:45 am]

BILLING CODE 3911–44–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–2245]

Agency Information Collection Activities; Comment Request; William D. Ford Federal Direct Loan Program, Federal Direct PLUS Loan Request for Supplemental Information

AGENCY: Federal Student Aid (FSA), 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 24, 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–2245. 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 Carolyn Rose, U.S. Department of Education, Federal Student Aid, 400 Maryland Avenue SW, Washington, DC 20202–1200.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carolyn Rose, (202) 453–5967.

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: William D. Ford Federal Direct Loan Program, Federal Direct PLUS Loan Request for Supplemental Information.

OMB Control Number: 1845–0103.

Type of Review: Revision of a currently approved ICR.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 1,379,766.

Total Estimated Number of Annual Burden Hours: 689,883.

Abstract: The Federal Direct PLUS Loan Request for Supplemental Information serves as the means by which a parent applicant may provide certain information to a school that will assist the school in originating the borrower's Direct PLUS Loan award, as an alternative to providing this information to the school by other means established by the school. This is a request for a revision of the currently approved form.

The One Big Beautiful Bill Act (OBBBA) signed into law on July 4, 2025, made statutory changes to Sections 455(a), 455(d), 455(e), 455(g), and 455(q) that impact borrower eligibility, terms and conditions, and borrowers' rights and responsibilities for Direct PLUS Loans received on or after July 1, 2026.

The new regulations directly impact the Direct PLUS Loan Request. Namely, the regulations modify the annual and aggregate loan limits for Direct PLUS Loans for parent borrowers and eliminate a graduate or professional student's eligibility for new PLUS loans as of July 1, 2026.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–12602 Filed 6–22–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1388]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Consolidation Loan Rebate Fee Report

AGENCY: Federal Student Aid (FSA), 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 July 23, 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 Carolyn Rose, (202) 453–5967.

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: Consolidation Loan Rebate Fee Report.

OMB Control Number: 1845–0046.

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: 2,460.

Total Estimated Number of Annual Burden Hours: 2,665.

Abstract: The Department of Education is submitting for approval the Consolidation Loan Rebate Fee Report, ED Form 4–619. This request is for an extension of a currently approved collection. The information collected on the Consolidation Loan Rebate Fee Report will be used to document Federal Consolidation loans held by lenders who are responsible for sending interest payment rebate fees to the Secretary of Education.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–12588 Filed 6–22–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–2213]

Federal Direct Loan Program Regulations for Forbearance and Loan Rehabilitation; Correction

AGENCY: Department of Education (ED), Federal Student Aid (FSA).

ACTION: Notice; correction.

SUMMARY: On June 18, 2026, the U.S. Department of Education published a 30-day comment period notice in the **Federal Register** requesting emergency processing from OMB with FR DOC# 2026–12318 (91 FR 36813, page 36813) seeking public comment for an information collection entitled, ''Federal Direct Loan Program Regulations for Forbearance and Loan Rehabilitation.'' In the Dates section, the notice should be corrected from ''[t]he Department requested emergency processing from OMB for this ICR on June 26, 2026.'' to ''[t]he Department is requesting emergency processing and approval from OMB for this ICR no later than

June 26, 2026.''. The PRA Coordinator, Office of the Chief Data Officer, Office of Planning, Evaluation and Policy Development, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: June 18, 2026.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–12587 Filed 6–22–26; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2026–1387; FRL–13202–04–OCSPP]

Certain New Chemicals; Receipt and Status Information for February, March, and April 2026

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt and request for comment.

SUMMARY: This document announces the Agency's receipt of new chemical submissions under the Toxic Substances Control Act (TSCA), including information about the receipt of a Premanufacture Notice (PMN), Significant New Use Notice (SNUN), Microbial Commercial Activity Notice (MCAN), and an amendment to a previously submitted notice; test information; a biotechnology exemption application; an application for a test marketing exemption (TME); and a notice of commencement of manufacture (defined by statute to include import) (NOC) for a new chemical substance. This document also provides a periodic status report on the new chemical substances that are currently under EPA review or have recently concluded review. EPA is hereby providing notice of receipt of this information, as required by TSCA, and an opportunity to comment. This document covers new chemical submissions that have passed an initial screening and, for PMNs, SNUNs and MCANs, were determined to be complete during the period from 04/1/2026 to 04/30/2026 regardless of initial submission date.

DATES: Comments must be received on or before July 23, 2026.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2026–1387 and the specific case number provided in this document for the chemical substance related to your comment, online at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting on and visiting the docket, along with more information about dockets generally, are available at *https://www.epa.gov/.*

FOR FURTHER INFORMATION CONTACT:

For technical information: Jim Rahai, Office of Chemical Safety and Pollution Prevention (OCSPP–OMCO–RISD), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

For general information: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This action provides information that is directed to the public in general.

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

EPA is publishing this document in the **Federal Register** as required by sections 5 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.,* and corresponding EPA regulations.

Under TSCA, a chemical substance may be either an ''existing'' chemical substance or a ''new'' chemical substance, see *https://www.epa.gov/chemicals-under-tsca.* Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a ''new chemical substance,'' while a chemical substance that is listed on the TSCA Inventory is classified as an ''existing chemical substance.'' See TSCA section 3(2) and (11). For more information about the TSCA Inventory, see *https://www.epa.gov/inventory.*

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN, or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the new chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture a new chemical substance, or manufacture or process a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for ''test marketing'' purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical substances will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME.

Premanufacture notification procedures for reviewing certain new microbial products of biotechnology are established in 40 CFR part 725. These pertain to MCANs and biotechnology exemptions, including TSCA experimental release applications (TERAs), TMEs for microorganisms, and Tier I and Tier II exemptions.

C. What action is the Agency taking?

This document provides notice of receipt and status reports for the covered period and certain submissions under TSCA section 5 and provides an opportunity to comment on this information. The Agency provides information about the receipt of PMNs, SNUNs, MCANs, and amendments to a previously submitted notice; test information; biotechnology exemption applications under 40 CFR part 725; TME applications; NOCs for new chemical substances; and a periodic status report on chemical substances that are currently under EPA review or have recently concluded review.

D. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit CBI to EPA through *https://www.regulations.gov* or email. If you wish to include CBI in your comment, please follow the instructions at *https://www.epa.gov/dockets/commenting-epa-dockets#rules* and clearly mark the information that you claim to be CBI. In addition to one complete version of the comment that includes CBI, a copy of the comment without CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR parts 2 and 703.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov//commenting-epa-dockets.*

II. Background

A. What information is being provided in this document?

The tables in this document provide the following information on the TSCA section 5 submissions received by EPA during this period and determined to be completely consistent with 40 CFR 720.70(a).

- *Case number.* The EPA number assigned to the TSCA section 5 submissions. Please note that a case number may be listed more than once in the table when the submission involves a subsequent amendment.
- *Chemical substance.* Name of the chemical substance, or generic name if the specific name is claimed as CBI.
- *Manufacturer.* Name of the submitting manufacturer, to the extent that such information is not subject to a CBI claim. The term ''manufacturer'' is defined by statute to include importer.
- *Use(s).* Potential uses identified by the manufacturer.
- *Received.* Date the submission was received by EPA.
- *Commencement.* Date of commencement provided by the submitter in the NOC.
- *Test information.* For test information received, the type of test information submitted to EPA is based on the attachment type and subtype data selected by the submitter.

B. What do the acronyms mean that are used in the tables?

As used in each of the tables, the following explanations apply:

- (S) indicates that the information in the table is the specific information provided by the submitter.
- (G) indicates that the information in the table is generic information because the specific information provided by the submitter was claimed as CBI.

C. How can I access other information about TSCA section 5 submissions?

EPA provides information on its website about cases reviewed under TSCA section 5, including the PMNs, SNUNs, MCANs, and exemption applications received; the date of receipt; the final EPA determination on the submission; and the effective date of EPA's determination. See *https://www.epa.gov/new-chemicals-under-toxic-substances-control-act-tsca/pre-manufacture-notices.* In addition, information EPA receives about chemical substances under TSCA, including non-CBI new chemical submissions, can be accessed in ChemView at *https://chemview.epa.gov/chemview.*

III. Receipt Reports

Table 1 provides non-CBI information for the PMNs, SNUNs and MCANs received by EPA that have passed an initial screening and determined to be completely consistent with 40 CFR 720.70(a) during this period.

TABLE 1—PMN/SNUN/MCANS RECEIVED AND UNDER REVIEW

Case No.	Received date	Manufacturer	Use	Chemical substance
J–26–0002 ...	02/09/2026	CBI	(G) Use for the production of a chemical	(G) Saccharomyces cerevisiae, chromosomal integration modification.
P–22–0149 ..	04/14/2026	Colonial Chemical, Inc ...	(S) All-purpose hard surface cleaner, Low foam floor scrubber, Spray Metal Cleaning Concentrate.	(S) Hexanoic acid, 3,5,5-trimethyl-, sodium salt (1:1).
P–23–0022 ..	03/31/2026	Cabot Corporation	(G) Import only in liquid/dispersion form for additive used in industrial applications.	(G) Multi-walled carbon nanotubes.
P–23–0023 ..	03/31/2026	Cabot Corporation	(G) Additive used in industrial applications	(G) Multi-walled carbon nanotubes.
P–23–0024 ..	03/31/2026	Cabot Corporation	(G) Additive used in industrial applications	(G) Multi-walled carbon nanotubes.
P–24–0195 ..	04/21/2026	CBI	(G) Heat transfer fluid, Dielectric testing	(G) Trimers of hexafluoropropene.
P–25–0037 ..	04/14/2026	Momentive Performance Materials.	(S) Intermediate	(S) Silane, dimethyl(2,4,4-trimethylpentyl)-.
P–25–0115 ..	04/24/2026	CBI	(G) Deposition material for use in electronics industry and non-electronics industry.	(G) Silylamine.
P–25–0120 ..	04/01/2026	CBI	(G) Ink component, Component of pellets, Paint component.	(G) Butanamide, [(dialkoxy[biscarbomonocyclic]-diyl) bis(substituted)] bis [(halo-dialkoxy carbomonocycle)-substituted.
P–25–0122 ..	04/02/2026	CBI	(G) Ink component, Component of pellets, Paint component.	(G) Butanamide, [(dihalo[biscarbomonocyclic]-diyl) bis(substituted)] bis [substituted, bis [substituted carbomonocycle and halo-dialkoxy carbomonocyclic] derivs.
P–26–0024 ..	03/31/2026	CBI	(G) Lubricating oil additive	(G) Maleated polyalkene, aminoethyl substituted heteromonocycle, carbopolycycle alkoxylated.
P–26–0059 ..	04/01/2026	Integrated Chemical Technologies, Inc.	(S) Conditioner is added to hydrochloric acid to provide corrosion inhibition of steel and other metallurgies. Typical dosage ranges between 5–10 gallons of Conditioner per 1000 gallons of 15wt% HCl.	(S) 2-Propen-1-one, 2-(methoxymethyl)-1-phenyl.
P–26–0059 ..	04/09/2026	Integrated Chemical Technologies, Inc.	(S) Conditioner is added to hydrochloric acid to provide corrosion inhibition of steel and other metallurgies. Typical dosage ranges between 5–10 gallons of Conditioner per 1000 gallons of 15wt% HCl.	(S) 2-Propen-1-one, 2-(methoxymethyl)-1-phenyl.
P–26–0060 ..	04/14/2026	CBI	(G) Polymer for coatings	(G) Alkanedioic acid, 2-alkylene-, reaction products with diethylenetriamine-alkylenimine-2-oxepanone polymer, heteropolycycle and poly-ethylene-poly-methyl substituted alkylene glycol 2-aminoalkyl Me ether.
P–26–0065 ..	04/13/2026	CBI	(S) Substance used to improve electrical conductivity, to improve mechanical properties in materials, for weight reduction in materials, in field emission applications, as a heating material, for heat dissipation.	(G) Single-walled carbon nanotubes.
P–26–0072 ..	03/31/2026	CBI	(G) Additive for plastics	(G) Calcium aluminum hydroxide heteroatom ester.
P–26–0072 ..	04/13/2026	CBI	(G) Additive for plastics	(G) Calcium aluminum hydroxide heteroatom ester.

TABLE 1—PMN/SNUN/MCANS RECEIVED AND UNDER REVIEW—Continued

Case No.	Received date	Manufacturer	Use	Chemical substance
P–26–0073 ..	04/09/2026	Integrated Chemical Technologies, Inc.	(S) Manufacture and process for use as and use as a component in oil production, specifically used as a corrosion inhibitor during acidizing of hydrocarbon shale formations.	(S) Quinoxalinium, 1,4-bis(phenylmethyl)-, chloride (1:2).
P–26–0077 ..	03/31/2026	IGM Resins USA, Inc	(S) Photo initiator for use in inks, adhesives, coatings, resins, and gels.	(S) Benzeneacetic acid, 4-[4-benzoylphenyl) thio]-. alpha. -oxo-, ethyl ester.
P–26–0078 ..	04/08/2026	Inkbit	(S) Uses as a solid cross-linkable polymer and/or liquid thermoset resin formulation.	(S) 1,4:5,8-Dimethanonaphthalene, 2-ethylidene-1,2,3,4,4a,5,8,8a-octahydro-.
P–26–0079 ..	04/20/2026	Seppic	(G) Anionic Surfactant	(S) Glutens, hydrolyzates, reaction products with lauroyl chloride, sodium salts.
P–26–0082 ..	04/27/2026	CBI	(S) Exported for use outside the US (G) Photoacid generator use at customer sites.	(G) Iodonium, bis (dialkyl carbomonocycle) salt with alkyl carbomonocycle hetero acid.
P–26–0083 ..	04/28/2026	SK Battery America, Inc	(S) Substance for use in the manufacture of battery cathodes.	(G) Cobalt lithium manganese nickel oxide, metals.
SN–25–0003	04/06/2026	CBI	(S) Cathode Active Material in Batteries	(S) Phosphoric acid, iron (2+) lithium salt (1:1:1).

Table 2 provides non-CBI information on the TMEs received by EPA that have passed an initial screening during this period.

TABLE 2—TMES RECEIVED AND UNDER REVIEW

Case No.	Received date	Manufacturer	Use	Chemical substance
T–25–0001	04/14/2026	CBI	(S) Cleaning solvent for closed electrolyte mixing/blending process (G) Battery electrolyte ingredient, contained use.	(G) N-halo sulfonyl-N, N-dialkylamine.
T–25–0001	04/17/2026	CBI	(S) Cleaning solvent for closed electrolyte mixing/blending process (G) Battery electrolyte ingredient, contained use.	(G) N-halo sulfonyl-N, N-dialkylamine.
T–25–0001	04/24/2026	CBI	(S) Cleaning solvent for closed electrolyte mixing/blending process (G) Battery electrolyte ingredient, contained use.	(G) N-halo sulfonyl-N, N-dialkylamine.

Table 3 provides non-CBI information on the NOCs received by EPA that have passed an initial screening during this period.

TABLE 3—NOCS RECEIVED AND UNDER REVIEW

Case No.	Received date	Commencement date	Chemical substance
J–25–0013	04/06/2026	03/24/2026	(G) Modified yeast, with chromosomal modifications to improve fermentation characteristics.
P–13–0558	04/22/2026	11/28/2015	(G) Alkylene imine homopolymer, alkyl derivatives.
P–20–0173	04/06/2026	06/09/2024	(G) Silsesquioxanes, alkyl, alkoxy- and hydroxy terminated.
P–21–0173	04/07/2026	10/17/2023	(G) Siloxanes and silicones polyether, polymer with aliphatic isocyanate, 2-dimethylaminoethanol and polyglycol ether.
P–21–0213	04/14/2026	03/15/2023	(G) Siloxanes and Silicones, alkyl methyl, dimethyl.
P–21–0213	04/22/2026	04/20/2026	(G) Siloxanes and Silicones, alkyl methyl, dimethyl.
P–21–0214	04/06/2026	03/15/2023	(G) Poly(oxy-1,2-ethanediyl), alpha,alpha′,alpha''-(trialkylamino)tris [omega-hydroxy-, alkyl (ester).
P–22–0066	04/07/2026	02/05/2026	(G) Polyol allyl ether, polymer with alkylene oxides, terpene ether sulfate, ammonium salt.
P–24–0067	04/23/2026	04/16/2026	(S) methanethioic acid, 1,1′-tetrathiobis-, O1, O1′-bis(1-methylethyl) ester.
P–25–0025	04/17/2026	04/01/2026	(G) Carbomonocyclic alcohol, 4,4- [6-(heteroatom-substituted carbomonocycle)-heteromonocycle-2,4-diyl] heteroatom-substituted] bis-.
P–25–0151	04/14/2026	03/15/2026	(G) Cobalt lithium manganese nickel oxide, metal-doped.
P–25–0152	04/14/2026	03/15/2026	(G) Cobalt lithium manganese nickel oxide, metal-doped.

Table 4 provides non-CBI information on the test information that has been received by EPA that has passed an initial screening during this period.

TABLE 4—TEST INFORMATION RECEIVED

Case No.	Received date	Type of test information	Chemical substance
P–14–0721	03/27/2026	Dioxins and Furans Testing	(S) D-Glucopyranose, oligomeric, decyl octyl glycosides, polymers with epichlorhydrin, (3-dimethyloctadecylammonio)- 2-hydroxypropyl ethers, chlorides.
P–16–0543	04/02/2026	Monitoring Report	(G) Halogenophosphoric acid metal salt.
P–16–0543	04/06/2026	Monitoring Report	(G) Halogenophosphoric acid metal salt.
P–23–0022	03/31/2026	*In Vitro* Skin Sensitization (OECD Test Guideline 442E); Respiratory Sensitization Testing.	(G) Multi-walled carbon nanotubes.

TABLE 4—TEST INFORMATION RECEIVED—Continued

Case No.	Received date	Type of test information	Chemical substance
P–23–0023	03/31/2026	*In Vitro* Skin Sensitization (OECD Test Guideline 442E); Respiratory Sensitization Testing.	(G) Multi-walled carbon nanotubes.
P–23–0024	03/31/2026	*In Vitro* Skin Sensitization (OECD Test Guideline 442E); Respiratory Sensitization Testing.	(G) Multi-walled carbon nanotubes.
P–23–0033	03/31/2026	*In Vitro* Skin Sensitization (OECD Test Guideline 442E); Respiratory Sensitization Testing.	(G) Multi-walled carbon nanotubes.
P–24–0162	04/03/2026	Description of engineering controls, the clean room showing the filtering efficacy, the MERV rating of the filters in the dust collectors, and manufacturing process. Layout of building showing the relative locations of the size reduction thermal processing steps. Technical details on the airborne particle monitoring for the Casella Microdust Pro CEL. Details on the dust collector.	(S) Single and multilayer turbostratic graphene.
SN–24–0001	04/14/2026	Inhalation Monitoring Report	(G) Carbon.

IV. Status Reports

Information about the TSCA section 5 PMNs, SNUNs, MCANs, and exemption applications received, including the date of receipt, the status of EPA's review, the final EPA determination, and the effective date of EPA's determination, is available online at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/pre-manufacture-notices.*

Authority: 15 U.S.C. 2601 *et seq.*

Dated: June 16, 2026.

Mary Elissa Reaves,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 2026–12564 Filed 6–22–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–13406–01–R9]

Clean Air Act Operating Permit Program; Order on Petition for Objection to State Operating Permit for the Humboldt Redwood Company, LLC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition.

SUMMARY: The Environmental Protection Agency (EPA) Administrator signed an order dated May 5, 2026, denying a petition dated January 1, 2025, from the Environmental Protection Information Center and the Humboldt Coalition for Clean Energy. The Petition requested that the EPA object to a Clean Air Act (CAA) title V operating permit issued by the North Coast Unified Air Quality Management District (NCUAQMD) to Humboldt Redwood Company, LLC, sawmill (''HRC facility'') for its lumber manufacturing and electric generating facility located in Humboldt County, California.

FOR FURTHER INFORMATION CONTACT: Po-Chieh Ting, EPA Region 9, telephone number: (415) 972–3191, email address: *ting.pochieh@epa.gov.* The final Order and Petition are available electronically at *https://www.epa.gov/title-v-operating-permits/title-v-petition-database.*

SUPPLEMENTARY INFORMATION: The EPA received a petition from the Environmental Protection Information Center and the Humboldt Coalition for Clean Energy dated January 1, 2025, requesting that the EPA object to the issuance of operating permit No. NCU 060–12, issued by the NCUAQMD to the HRC facility in Humboldt County, California. On May 5, 2026, the EPA Administrator issued an order denying the petition. The order explains the basis for the EPA's decision.

Sections 307(b) and 505(b)(2) of the CAA provide that a petitioner may request judicial review of those portions of an order that deny issues in a petition. Any petition for review shall be filed in the United States Court of Appeals for the appropriate circuit no later than August 24, 2026.

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

Dated: June 9, 2026.

Anita Lee,

Director, Air and Radiation Division, Region IX.

[FR Doc. 2026–12549 Filed 6–22–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R07–SFUND–2026–2806; FRL–13330–01–R7]

Notice of Two Proposed CERCLA Administrative Settlement Agreements for Recovery of Past Response Costs at the Recycletronics—Akron Farm Facility Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), notice is hereby given by the U.S. Environmental Protection Agency (EPA), Region 7, of two proposed CERCLA Administrative Settlement Agreements for Recovery of Past Response Costs pertaining to the Recycletronics—Akron Farm Facility Superfund Site located at 16998 160 St., Akron, Iowa. The proposed settlement agreements are with WM Recycle America, L.L.C. and Dynamic Lifecycle Innovations, Inc.

DATES: Comments must be received on or before July 23, 2026.

ADDRESSES: The proposed settlement agreements are available for public inspection at the EPA's Region 7 office. A copy of the proposed agreements may also be obtained from Catherine Chiccine; EPA Region 7; 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (816) 601–6162. You may send comments, identified by Docket ID No. EPA–R07–SFUND–2026–2806 to *https://www.regulations.gov.* You may also send comments, identified by Recycletronics—Akron Farm Facility Cost Recovery Settlements, to Ms. Chiccine at the above address or electronically to *chiccine.catherine@epa.gov.*

Instructions: All submissions received must include the Docket ID No. for this matter. Comments received will be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on this process, see the ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Catherine Chiccine; Assistant Regional Counsel; Office of Regional Counsel; Environmental Protection Agency Region 7; 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (816) 601–6162; email address: *chiccine.catherine@epa.gov.*

SUPPLEMENTARY INFORMATION:

Removal Action

The EPA conducted a Fund-lead Time-Critical Removal Action at the Recycletronics—Akron Farm Facility Superfund Site (Site) located at 16998 160 St., Akron, Iowa between March 2022 and July 2022 to remove approximately 944 tons of lead-containing cathode ray tube glass from the Site. Lead is a hazardous substance as defined by CERCLA.

To recover some of its response costs, the EPA negotiated two proposed CERCLA section 122(h)(1) Administrative Settlement Agreement for Recovery of Past Response Costs (settlements) with two potentially responsible parties that arranged for disposal of hazardous waste at the Site. The EPA will enter the proposed settlements with WM Recycle America, L.L.C. and Dynamic Lifecycle Innovations, Inc. WM Recycle America, L.L.C. and Dynamic Lifecycle Innovations, Inc. agreed to pay EPA for their respective portions of EPA's costs incurred in responding to the time-critical removal action at the Site.

Each settlement includes a covenant by EPA not to sue or take administrative action against WM Recycle America, L.L.C., and Dynamic Lifecycle Innovations, Inc. pursuant to sections 106 and 107(a) of CERCLA.

Written Comments

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement agreement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Submit your comments, identified by Docket ID No. EPA–R07–SFUND–2026–2806 at *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. If CBI exists, please contact Ms. Chiccine. 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 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.*

James Macy,

Regional Administrator, EPA Region 7.

[FR Doc. 2026–12548 Filed 6–22–26; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than July 8, 2026.

A. Federal Reserve Bank of Chicago (Christopher Koopmans, Senior Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414. Comments can be sent electronically to *Comments.applications@chi.frb.org:*

1. *The Honegger 2012 Irrevocable Trust Agreement F/B/O Andrew A. Honegger, Andrew Honegger, as trustee, both of Morton, Illinois; the Honegger 2025 Irrevocable Trust Agreement F/B/O Andrew A. Honegger, Andrew A. Honegger, as trustee; Andrew Honegger, Cynthia Honegger, Sarah Honegger, Katherine Honegger, and Jean Ann Honegger, all of Morton, Illinois; the Honegger 2012 Irrevocable Trust Agreement F/B/O Molly M. Honegger, Molly M. Honegger, as trustee, both of Oakland, California; the Honegger 2025 Irrevocable Trust Agreement F/B/O Molly M. Honegger, Molly M. Honegger, individually and as trustee, Stephen Hesseltine, Sienna Hesseltine, and Sophia Hesseltine, all of Oakland, California, and together with the Hometown Community Bancorp, Inc., Employee Stock Ownership Plan and Trust, Andrew A. Honegger, as trustee;* as a group acting in concert, to retain voting shares of Hometown Community Bancorp, Inc., and thereby retain voting shares of Morton Community Bank, both of Morton, Illinois.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026–12595 Filed 6–22–26; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 251 0096]

Aurobindo and Lannett; Analysis of Proposed Agreement Containing Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair methods of competition. The attached Analysis of

Proposed Agreement Containing Consent Orders to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 23, 2026.

ADDRESSES: Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write ''Aurobindo Pharma; File No. 251 0096'' on your comment and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, please mail your comment to: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Ave. NW, Mail Stop H–144 (Annex P), Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of 30 days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before July 23, 2026. Write ''Aurobindo Pharma; File No. 251 0096'' on your comment. Your comment—including your name and your State—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

We encourage you to submit comments through the *https://www.regulations.gov* website. Postal mail addressed to the Commission will be subject to delay because of heightened security screening. If you prefer to file your comment on paper, write ''Aurobindo Pharma; File No. 251 0096'' on your comment and on the envelope, and send it via overnight service to: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex P), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other State identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the *https://www.regulations.gov* website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *https://www.ftc.gov* to read this document and the news release describing the proposed settlement. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments it receives on or before July 23, 2026. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Agreement Containing Consent Orders to Aid Public Comment

Introduction

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Consent Agreement'') from Aurobindo Pharma Limited, Aurobindo Pharma USA, Inc. (collectively, ''Aurobindo''), and Lannett Company, Inc. (''Lannett'') (collectively, ''Respondents'') to remedy the anticompetitive effects resulting from Aurobindo's proposed acquisition of Lannett (the ''Acquisition''). Aurobindo is one of the world's largest suppliers of generic pharmaceutical products, and Lannett also develops, manufactures, and sells generic pharmaceutical products within the United States. Aurobindo and Lannett are currently two of a limited number of independent significant competitors in the markets for four generic pharmaceutical products: (1) mycophenolate mofetil oral suspension, (2) generic niacin extended release (''ER'') tablets, (3) generic pilocarpine tablets, and (4) generic rabeprazole sodium delayed release (''DR'') tablets.

The Commission's Complaint alleges that the Acquisition, if consummated, would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and substantially lessen competition in the four relevant generic pharmaceutical markets by eliminating actual, direct, and substantial competition between Aurobindo and Lannett and reducing the number of independent significant competitors, thereby meaningfully increasing the risk that Aurobindo would be able to unilaterally exercise market power in these markets, the remaining competitors would engage in coordination between or among each other, and that customers would be forced to pay higher prices for generic drugs in the relevant pharmaceutical markets.

The Consent Agreement, which contains the proposed Decision & Order (''Order''), will remedy the alleged violations by requiring Respondents to divest all rights and assets related to the four relevant generic pharmaceutical products to Quagen Pharmaceuticals Inc. (''Quagen''). The Commission and

Respondents have also agreed to an Order to Maintain Assets that requires Respondents to operate and maintain each divestiture product in the normal course of business until the products are ultimately divested to Quagen.

The proposed Consent Agreement has been placed on the public record for thirty days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will review the comments received and decide whether it should withdraw, modify, or make the Consent Agreement final.

The Parties and The Transaction

Aurobindo Pharma Limited is a company organized, existing, and doing business under and by virtue of the laws of India with its executive offices and principal place of business located at Galaxy, Floors: 22–24, Plot No. 1, Survey No. 83/1, Hyderabad Knowledge City, Raidurg Panmaktha, Ranga Reddy District, Hyderabad—500032, India. Aurobindo is a global, integrated pharmaceutical company that develops, manufactures, distributes, and commercializes a broad line of generic pharmaceuticals and is one of the largest suppliers of generic pharmaceutical products to the United States.

Aurobindo has operated since 2004 in the United States through its subsidiary, Aurobindo Pharma U.S.A., Inc., headquartered in East Windsor, New Jersey. The company operates two U.S.-based manufacturing facilities: one in East Windsor, New Jersey that produces solid oral dose formulations; and another in Raleigh, North Carolina that produces inhaled products and topical dermatological products.

Lannett Company, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its executive offices and principal place of business located at 1150 Northbrook Drive, Suite 155, Trevose, Pennsylvania 19053. Lannett develops, manufactures, and commercializes generic pharmaceutical products across a variety of therapeutic classes. Lannett manufactures its own products and also operates a contract manufacturing business for other pharmaceutical companies.

Pursuant to a Membership Interest Purchase Agreement dated July 30, 2025, Aurobindo agreed to acquire Lannett in a deal valued at approximately $250 million. As part of the Acquisition, Aurobindo will acquire Lannett's commercial portfolio, research and development pipeline programs, contract manufacturing business, and U.S.-based generic pharmaceutical manufacturing capabilities.

The Relevant Products and Market Structure

The relevant lines of commerce in which to analyze the effects of the Acquisition are the development, license, manufacture, marketing, distribution, and sale of four pharmaceutical products: (1) generic mycophenolate mofetil oral suspension, (2) generic niacin ER tablets, (3) generic pilocarpine tablets, and (4) generic rabeprazole sodium DR tablets.

Mycophenolate mofetil oral suspension is an immunosuppressant prescribed to help prevent organ transplant rejection. The generic version is marketed in a 200 mg/mL oral generic suspension strength. Though six companies supply generic mycophenolate mofetil oral suspension, the majority of sales are concentrated in Lanett and two other market participants. Aurobindo, which entered the market for mycophenolate in 2025, is the fourth largest competitor in the market.

Niacin ER tablets are used to manage cholesterol levels and to prevent or manage niacin deficiency. Generic niacin ER tablets are available in 500 mg and 1,000 mg strengths. There are six suppliers of niacin ER tablets in the market, including Aurobindo and Lannett. Aurobindo is the leading supplier of niacin ER tablets in the 500 mg strength, and both Aurobindo and Lannett are significant competitors in the markets for generic niacin ER tablets in both the 500 mg and 1,000 mg strengths.

Generic pilocarpine tablets are used to treat dry mouth, often after radiation therapy for patients with Sjögren's syndrome, which is an autoimmune disease causing the immune system to attack moisture-producing glands. Generic pilocarpine tablets come in in 5 mg and 7.5 mg strengths. Lannett is the leading supplier of pilocarpine tablets in the United States, with a share greater than 80 percent for both the 5 mg and 7.5 mg strengths. Six other companies also supply generic pilocarpine in the 5 mg strength, but in the 7.5 mg strength, Lannett and Aurobindo are the only two suppliers in the market.

Rabeprazole sodium tablets are proton pump inhibitors used to reduce stomach acid and are indicated for the treatment of duodenal ulcers, gastroesophageal reflux disease, and Zollinger-Ellison syndrome, a condition where the stomach produces too much acid. Five firms supply generic rabeprazole, including Aurobindo and Lannett. Aurobindo and Lannett are significant competitors in the market for generic rabeprazole tablets in the United States, with over 20 percent share each.

The Relevant Geographic Market

The United States is the relevant geographic market in which to assess the competitive effects of the proposed Acquisition. Generic mycophenolate mofetil oral suspension, generic niacin ER tablets, generic pilocarpine tablets, and generic rabeprazole sodium DR tablets are prescription pharmaceutical products approved and regulated by the U.S. Food and Drug Administration (''FDA''). As such, products sold outside the United States, but not approved for sale in the United States, do not provide viable competitive alternatives for U.S. consumers.

Competitive Effects of the Acquisition

Competition among generic drug manufacturers provides significant benefits for patients and customers. Therapeutically equivalent pharmaceutical products are commoditized, and prices are often inversely correlated with the number of competitors in each market. As the number of suppliers for a therapeutically equivalent drug increases, the price for that drug will decrease due to the direct competition between the existing suppliers and each additional supplier. The Acquisition, however, would likely result in substantial competitive harm by eliminating actual, direct, and substantial competition between Aurobindo and Lannett and reducing the number of independent significant competitors in each of the four relevant generic pharmaceutical markets.

In each of the four markets at issue, Aurobindo and Lannett are two of a limited number of active competitors. While the mycophenolate tablets market appears to have six current suppliers, the majority of the share is concentrated in Lannett and two other market participants. Aurobindo is the fourth largest competitor in this market and has been rapidly gaining share, despite only entering the market last year. Similarly, while the market for niacin ER tablets appears to have six competitors, most of the sales are concentrated in only four companies, including Aurobindo and Lannett. In the market for pilocarpine tablets, Aurobindo and Lannett are two of a limited number of significant competitors supplying 5 mg tablets and the only competitors supplying the 7.5 mg tablets. Finally, in the market for rabeprazole tablets, the Acquisition would combine two of a limited number

of competitors, both of which have significant share of over 20 percent. As a result, the Acquisition would eliminate competition between Aurobindo and Lannett in these markets and reduce the number of competitors in already concentrated markets.

The effects of the Acquisition may also substantially lessen competition in these markets by meaningfully increasing the likelihood that the remaining competitors would engage in coordinated interaction between or among each other post-Acquisition. The generic drug industry has a history of collusion. The Department of Justice and coalitions of State Attorneys General have conducted Federal multistate civil antitrust investigations in the generic drug industry, which resulted in charges and complaints alleging several generic drug manufactures violated the antitrust laws by fixing prices for a wide range of generic pharmaceutical products. A history of coordination in an industry creates the risk of future coordination, in particular post-Acquisition, when there will be one fewer significant competitor.

Entry Conditions

Entry in the relevant markets would not be timely, likely, or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the Acquisition. *De novo* entry would not be timely due to the time required for drug development and FDA approval requirements, and no other entry is likely to occur that would be sufficient to deter or counteract the competitive harms likely to result from the Acquisition.

The Proposed Order and Order To Maintain Assets

The proposed Order effectively remedies the competitive concerns raised by the proposed Acquisition for the four relevant generic pharmaceutical markets at issue. Pursuant to the proposed Order, the parties are required to divest Respondent's rights and assets related to the four products to Quagen. The parties must accomplish these divestitures no later than ten days after the Acquisition is consummated. The provisions of the Consent Agreement ensure that Quagen becomes an independent, viable, and effective competitor in the U.S. markets for the relevant products.

Quagen has the expertise, sales infrastructure, and resources to restore the competition that otherwise would have been lost due to the proposed Acquisition. While it is a smaller generic company, Quagen has significant manufacturing capability and experience marketing and distributing a variety of generic drugs. Quagen is well suited to take on the four products and replace the competition that would be lost as a result of Aurobindo's proposed acquisition of Lannett.

If the Commission determines that Quagen is not an acceptable acquirer, or that the manner of the divestitures is not acceptable, the proposed Order requires Respondents to unwind the sale of rights and assets and then divest the affected product to a Commission-approved acquirer within six months of the date the Order becomes final. The Commission has agreed to appoint a Monitor to ensure that Aurobindo and Lannett comply with all of their obligations pursuant to the Consent Agreement and to keep the Commission informed about the status of the transfer of the rights and assets to the buyer. The proposed Order further allows the Commission to appoint a trustee in the event that Aurobindo and Lannett fail to divest the products as required.

The purpose of this analysis is to facilitate public comment on the Consent Agreement and proposed Order to aid the Commission in determining whether it should make the proposed Order final. This analysis is not an official interpretation of the proposed Order and does not modify its terms in any way.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2026–12612 Filed 6–22–26; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974; System of Records

AGENCY: Office of Family Assistance (OFA), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the Department of Health and Human Services (HHS) is making updates to an existing system of records maintained by the Office of Family Assistance (OFA) within HHS' Administration for Children and Families (ACF), System No. 09–80–0375, Temporary Assistance for Needy Families (TANF) Data. The system of records contains data about TANF clients received from TANF grantee agencies in the states, territories, and Tribal organizations, as well as verification information obtained from those agencies, other HHS records, or other government agencies or entities engaged to assist ACF with program integrity reviews or projects.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this notice is effective June 23, 2026, with the exception of the new routine use described below, which is effective July 23, 2026. Please submit any comments on the notice by July 23, 2026.

ADDRESSES: Comments may be submitted to the Federal eRulemaking Portal electronically at *http://www.regulations.gov* or mailed to John Talieri, Senior Official for Privacy, Administration for Children and Families, 330 C Street SW, Washington, DC 20201. Please include ''09–80–0375'' in the subject line or regulations.gov comment. Comments received will be available at *regulations.gov* for public viewing, inspection or copies. ACF does not edit personally identifiable information from submissions; therefore, commenters should submit only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: General questions about the modified system of records may be submitted by mail or email to TANF Data Division, Office of Family Assistance, Administration for Children and Families, 330 C Street SW, Washington, DC 20201, or *tanfdata@acf.hhs.gov;* or may be submitted by telephone to John Talieri, Senior Official for Privacy, at (202) 969–3581.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Family Assistance (OFA) oversees the cash welfare block grant called the Temporary Assistance for Needy Families (TANF) program. The TANF program provides assistance and work opportunities to needy families through grants that provide states, certain U.S. territories, and Tribes with federal funds and flexibility to develop and implement their welfare programs. Each state and U.S. territory that operates a program of assistance for low-income families using TANF funding is required by statute to collect data about the recipients of that TANF assistance. 42 U.S.C. 611. Federally recognized tribes administering TANF programs are also required by statute to collect the same core data elements. 42 U.S.C. 612(h).

II. Modifications to SORN 09–80–0375

The changes to SORN 09–80–0375 include:

- In the Authority section, adding 42 U.S.C. 1320b–7 and 8 U.S.C. 1373.
- Revising the Purpose(s) section to:
  - Clarify the first purpose description by changing ''. . .grantees are meeting certain requirements. . .'' to ''. . .grantees *are ensuring that TANF recipients* are *eligible in accordance with the* requirements *of Title IV–A. . .*'' and deleting ''including work participation and time-limit requirements.''
  - Add a new purpose description: ''to ensure and confirm grantee compliance with TANF program requirements through HHS agency oversight activities including but not limited to program integrity reviews (*e.g.* comprehensive assessments of how grantees administer TANF programs and follow statutory requirements), additional audits (*e.g.* financial audits, programmatic audits, and fraud investigations), and monitoring (*e.g.* regular review of data reports, on-site or virtual visits to TANF agencies, periodic review of policies and procedures). The purpose is to ensure compliance with all TANF program requirements including but not limited to the work participation rate and time-limits, the requirement to provide complete and accurate data, and the requirement to verify TANF recipients' citizenship or immigration status in records maintained by the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (formerly the U.S. Immigration and Nationalization Service (INS)). *See* 45 U.S.C. 265.7(b); 42 U.S.C. 1320b-7(d); 6 U.S.C. 552(d);''
  - Remove extraneous ''The monthly TANF data are reported by the individual grantees for each Federal fiscal quarter'' from the purposes section; add clarifying '' 'TANF data' refers to data from all TANF programs, including Tribal TANF programs.''
- In the Categories of Records section, introducing the existing set of record categories as ''data reported to ACF by TANF grantee agencies''; introducing a new, separate set of record categories as ''verification information obtained from those agencies, other HHS records, or other government agencies or entities (*e.g.* DHS or the Social Security Administration (SSA)) engaged to assist ACF with program integrity reviews or projects, to check whether TANF grantee agencies are complying with TANF program requirements''; and adding examples of data elements contained in the records.
- In the Record Source Categories section, adding these sources of verification information which are not already included: ''other HHS records'' and ''other federal or state agencies or entities engaged to assist ACF with program integrity reviews or projects.''
- Adding one new routine use (routine use 10) to the Routine Use(s) section, which will authorize disclosures to another federal or grantee agency or entity engaged by ACF (*e.g.* DHS or TANF program administrators) to assist ACF with program integrity reviews or projects, to verify whether TANF grantee agencies are complying with TANF program requirements, including verifying citizenship or immigration status.
- Updating the Retrieval section to add ''SSN'' as a personal identifier used to retrieve verification information.
- Updating the Record Access Procedure section to include a digital service option as required by the CASES Act and OMB Memorandum M–21–04.

Because some of these modifications are significant, as required by the Privacy Act at 5 U.S.C. 552a(r), HHS sent a report of this modified system of records to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Management and Budget.

Dated: June 17, 2026.

David M. Swegle,

Director, Office for Family Assistance, Administration for Children and Families.

SYSTEM NAME AND NUMBER:

Temporary Assistance for Needy Families (TANF) Data, 09–80–0375.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The address of the agency component responsible for the system of records is the Administration for Children and Families, 330 C Street SW—3rd Floor, Washington, DC 20201. The cloud service providers (CSP) are located at that same address and the second CSP is located at the U.S. General Services Administration's (GSA) Technology Transformation Services headquarters, 1800 F Street NW, Washington, DC 20405.

SYSTEM MANAGER(S):

The System Manager is the Deputy Director of the TANF Data Division, Office of Family Assistance, Administration for Children and Families, 330 C Street SW—3rd Floor, Washington, DC 20201; Email: *tanfdata@acf.hhs.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

TANF: 42 U.S.C. 601 through 619 (Title IV–A of the Social Security Act); 42 U.S.C. 1320b–7 (sec. 1137 of the Social Security Act); and 8 U.S.C. 1373 (Communication between government agencies and the U.S. Citizenship and Immigration Services (USCIS) (formerly the U.S. Immigration and Naturalization Service (INS)). TANF data collection and reporting regulations are found in 45 CFR part 265.

Tribal TANF: 42 U.S.C. 612 (sec. 412 of the Social Security Act); and 8 U.S.C. 1373 (Communication between government agencies and the USCIS (formerly the INS)). Tribal TANF data collection and reporting regulations are found in 45 CFR part 286.

PURPOSE(S) OF THE SYSTEM:

The purposes for which TANF data are used are:

1. to determine whether grantees are ensuring that TANF recipients are eligible in accordance with the requirements of Title IV–A of the Social Security Act;
2. to ensure and confirm grantee compliance with TANF program requirements through HHS agency oversight activities including but not limited to program integrity reviews (*e.g.* comprehensive assessments of how grantees administer TANF programs and follow statutory requirements), additional audits (*e.g.* financial audits, programmatic audits, and fraud investigations), and monitoring (*e.g.* regular review of data reports, on-site or virtual visits to TANF agencies, periodic review of policies and procedures). The purpose is to ensure compliance with all TANF program requirements including but not limited to the work participation rate and time-limits, the requirement to provide complete and accurate data, and the requirement to verify TANF recipients' citizenship or immigration status in records maintained by the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (formerly the U.S. Immigration and Nationalization Service (INS)). See 45 U.S.C. 265.7(b); 42 U.S.C. 1320b–7(d); 6 U.S.C. 552(d);
3. to compile information used to report to Congress on the TANF program; and
4. to perform research on the caseload dynamics and employment trajectories of TANF recipients.

(The term ''grantees'' is used in this notice to refer to the Tribal TANF programs, 50 states, the District of Columbia, and the jurisdictions of Puerto Rico, the U.S. Virgin Islands, and Guam. ''TANF data'' refers to data from

all TANF programs, including Tribal TANF programs.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records are about the following categories of individuals:

1. Members of families (as defined at 45 CFR 265.2) who received assistance under the TANF program in any month. For data collection and reporting purposes only, family means:

a. all individuals receiving assistance as part of a family under the grantee's TANF or separate state program (including noncustodial parents, where required under 45 CFR 265.3(f)); and

b. the following additional persons living in the household, if not otherwise included:

○ parent(s) or caretaker relative(s) of any minor child receiving assistance;

○ minor siblings of any child receiving assistance; and

○ any person whose income or resources would be counted in determining the family's eligibility for or amount of assistance.

2. Members of families no longer receiving assistance under the TANF program. 45 CFR 265.2(c)–(d) and 45 CFR 265.3(b)(2).

CATEGORIES OF RECORDS IN THE SYSTEM:

The records consist of data reported to ACF by TANF grantee agencies and verification information obtained from those agencies, other HHS records, or other government agencies or entities (*e.g.* DHS or the Social Security Administration (SSA)) engaged to assist ACF with program integrity reviews or projects, to check whether TANF grantee agencies are complying with TANF program requirements.

Data reported to ACF by TANF grantee agencies includes:

1. *Family-level data,* including, for example, county of residence, 5-digit ZIP Code, household size, type and amount of assistance received, and case number.

2. *Adult-level or minor-child-head-of-household data,* including, for example, Social Security number, date of birth, citizenship/immigration status, race, employment status, education level, hours of participation in work activities, and income.

3. *Child data,* including, for example, Social Security number, date of birth, citizenship/immigration status, race, and education level.

Data reported by other government agencies or entities includes:

1. Verification information may include SSN, date of birth, county of residence, name, address, and detailed immigration status information (*e.g.,* whether an individual is a refugee, non-immigrant, has no status, has temporary protected status, requires additional verification).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from TANF grantee agencies in the states, territories, and Tribal organizations; from other HHS records; and from other federal or state agencies or entities engaged to assist ACF with program integrity reviews or projects.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, as amended, at 5 U.S.C. 552a(b), under which ACF may release information from this system of records without the consent of the individual. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible.

1. *Disclosure of Identifiable Data for Research.* Information from this system of records may be disclosed with personal identifiers included for use solely as a statistical, research, or reporting record in response to specific requests from public or private entities. No data will be disclosed until the requester has agreed in writing not to use such data to identify any individuals and has provided advance adequate written assurance that the records will be used solely as a statistical, research, or reporting record.

a. *Note:* Data produced by matching grantee-provided data in this system of records with data from the Office of Child Support Enforcement's National Directory of New Hires system of records will only be disclosed in accordance with routine use disclosure 8 (*Disclosure to State Agencies Operating Specified Programs*) set forth in SORN 09–80–0381 OCSE National Directory of New Hires.

2. *Disclosure for Law Enforcement Purpose.* Information may be disclosed to the appropriate federal, state, local, Tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

3. *Disclosure for Private Relief Legislation.* Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

4. *Disclosure to Congressional Office.* Information may be disclosed to a congressional office from the record of an individual in response to a written inquiry from the congressional office made at the request of, and on behalf of, the individual.

5. *Disclosure to Department of Justice (DOJ) or in Litigation.* Information may be disclosed to DOJ, or in a proceeding before a court, adjudicative body, or other administrative body before which HHS is authorized to appear, or in proceedings arguably relevant to the litigation, when: HHS, or any component thereof; or any employee of HHS in his or her official capacity; or any employee of HHS in his or her individual capacity where DOJ or HHS has agreed to represent the employee; or the United States, if HHS determines that litigation is likely to affect HHS or any of its components, is a party to the proceedings or has an interest in such proceedings, and the use of such records by DOJ or HHS is determined by HHS to be arguably relevant to the litigation.

6. *Disclosure to the National Archives and Records Administration (NARA).* Information may be disclosed to NARA in records management inspections.

7. *Disclosure to Contractors, Grantees, and Others.* Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for HHS related to the purposes of this system of records and who have a need to have access to the information in the performance of their duties or activities for HHS.

8. *Disclosure in the Event of a Security Breach Experienced by HHS.* Records may be disclosed to appropriate agencies, entities, and persons when (1) HHS suspects or has confirmed that there has been a breach of the system of records, (2) HHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HHS (including its information systems, programs, and operations), the federal government, or national security, and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HHS's efforts to respond to the suspected of confirmed breach or to prevent, minimize, or remedy such harm.

9. *Disclosure to Assist Another Agency Experiencing a Security Breach.* Records may be disclosed to another federal agency or federal entity, when HHS 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.

10. *Disclosure to Another Agency/ Entity Engaged to Assist ACF With Program Integrity Reviews or Projects, for TANF Program Compliance Purposes.* Records may be disclosed from this system of records to another federal or grantee agency or entity engaged by ACF (*e.g.,* DHS or TANF program administrators) to assist ACF with program integrity reviews or projects, to verify whether TANF grantee agencies are complying with TANF program requirements, including verifying citizenship or immigration status.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic records are stored in a restricted database on a cloud computing network or in secure files on a restricted computer network.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records reported by TANF grantee agencies are retrieved by an SSN or case number. Verification information is retrieved by SSN.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The records (family-level data; adult-level or minor-child-head-of-household data; and child data) are retained for administrative, audit, legal, or operational purposes, and in accordance with records schedule DAA–292–2016–0006, Item 7.1 *Data, Reports and Tables* and Item 7.2 *Other Reports,* approved by the National Archives and Records Administration (NARA).

- Item 7.1 *Data, Reports and Tables* provides for records related to cash assistance caseloads, work participation data, and caseload characteristics to be cut off at the end of the fiscal year and transferred to NARA 20 years after cutoff, for permanent retention, due to its significant research value.
- Item 7.2 *Other Reports* provides for routine administrative supporting documents for the National Directory of New Hires (NDNH) match reports, and Temporary Assistance for Needy Families and maintenance of effort reports submitted by states, territories, and tribes, to be cut off at the end of the fiscal year the reports are completed and destroyed three years after cutoff.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Safeguards conform to the HHS Information Security and Privacy Program, *https://www.hhs.gov/ocio/securityprivacy/index.html.* The information technology system used to store the records leverages cloud service providers that maintain an authority to operate in accordance with applicable laws, rules, and policies, including Federal Risk and Authorization Management Program (FedRamp) requirements.

Information is safeguarded in accordance with applicable laws, rules and policies, including the HHS information security policies, the E-Government Act of 2002, which includes the Federal Information Security Management Act of 2002 (FISMA), 44 U.S.C. 3541 through 3549, as amended by the Federal Information Security Modernization Act of 2014, 44 U.S.C. 3551 through 3558, all pertinent National Institutes of Standards and Technology (NIST) publications, and OMB Circular A–130, Managing Information as a Strategic Resource. Records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. Agency personnel, contractors, and grantees who have access to the records are required to maintain confidentiality by assuring that case records are kept in a safe, secure environment within agency, contractor, or grantee facilities. They are also required to sign a confidentiality agreement and to receive annual training on records management, cybersecurity, privacy, and confidentiality policies and procedures, including methods of protecting client confidentiality.

Case records are filed electronically according to Office of Family Assistance protocols, and access to records is controlled through log-in/out processes for computer logs. The records are accessible only to authorized users using two-factor authentication through a secured system that is protected by encryption, firewalls, and intrusion detection systems and requires additional encryption for any records stored on removable media. Records that become eligible for destruction are disposed of in alignment with the secure destruction methods prescribed by the NIST Special Publication (SP) 800–88. The associated information technology (IT) system(s) receive Authority to Operate (ATO) under the guidance of NIST SP 800–53.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about them in this system of records may submit a request through a secure web portal or via mail. To submit through the web portal, individuals should go to *FOIA.gov*. Email is not considered to be sufficiently secure to safely transmit sensitive information, so individuals should not use email to submit a sensitive request or sensitive attachments; any sensitive information should be sent to the System Manager by mail or submitted via the web portal. A written request must contain the requester's full name, Social Security number, address, telephone number and/or email address, date of birth, and signature, and should identify the state, Tribe, or territory where the requestor participated in the TANF program. For more information, see: *https://www.hhs.gov/foia/privacy/how-make-privacy-act-request.html.*

For mail requests to the System Manager, so that HHS may verify the requester's identity, the requester's signature must be notarized or the request must include the requester's written certification that the requester is the individual who the requester claims to be and that the requester understands that the knowing and willful request for or acquisition of a record pertaining to an individual under false pretenses is a criminal offense subject to a fine of up to $5,000.

Individuals may also request an accounting of disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Individuals seeking to amend records about them in this system of records must submit a written amendment request to the relevant System Manager identified in the ''System Manager(s)'' section of this SORN, containing the same information required for an access request. The request must include verification of the requester's identity in the same manner required for an access request; must reasonably identify the record and specify the information contested, the corrective action sought, and the reasons for requesting the correction; and should include supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

NOTIFICATION PROCEDURES:

Individuals who wish to know if this system of records contains records about them must submit a written notification request to the relevant System Manager identified in the ''System Manager(s)'' section of this SORN. The request must contain the same information required

for an access request and must include verification of the requester's identity in the same manner required for an access request.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

89 FR 25880 (Apr. 12, 2024).

[FR Doc. 2026–12514 Filed 6–22–26; 8:45 am]

BILLING CODE 4184–42–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–1732]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Certification of Identity, Form FDA 3975

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by July 23, 2026.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0832. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Patrick Clouser, Office of Operations, Food and Drug Administration, 12420 Parklawn Drive, Rockville, MD 20852, (240) 402–5276, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Certification of Identity, Form FDA 3975; OMB Control Number 0910–0832—Extension

This information collection supports Form FDA 3975 titled, ''Certification of Identity,'' which is used by FDA to identify an individual requesting a particular record under the Freedom of Information Act (FOIA) and the Privacy Act. The form is available on our website (*https://www.fda.gov/media/107210/download*). If an individual requests one, we will send it by mail or email. The form is required only if an individual makes a FOIA request or Privacy Act request for their own records but has not provided sufficient assurance of identity in the incoming request.

The FOIA grants the public the right to access Federal records not normally prepared for public distribution. The Privacy Act grants the right of access to members of the public who seek access to one's own records that are maintained in an Agency's system of records (*i.e.* the records are retrieved by that individual's name or other personal identifier). The statutes overlap, and individuals who request their own records are processed under both statutes. The Agency may need to confirm that the individual making the FOIA or Privacy Act request is indeed the same person named in the Agency records. Respondents to the information collection are asked for certain information including name, citizenship status, social security number, address, date of birth, place of birth, signature, and date of signature.

In the **Federal Register** of July 11, 2025 (90 FR 30944), FDA published a 60-day notice requesting public comment on the proposed collection of information. Three comments were received. They did not generally pertain to the Paperwork Reduction Act or the burden of information collection. To the extent that any of them did in part pertain to the information collection, the comments expressed confusion regarding the information disclosure requirement of the Freedom of Information Act and the information protection requirement of the Privacy Act. This information collection is a mechanism by which an individual can by make a FOIA request for records covered by the Privacy Act pertaining to themselves, per the Conditions of Disclosure set forth in 5 U.S.C. 552a(b).

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

FDA form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
3975	24	1	24	.17 (10 minutes)	4

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–12579 Filed 6–22–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–6540]

Agency Information Collection Activities; Proposed Collection; Comment Request; Potential Tobacco Product Violations Reporting Form

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the Potential

Tobacco Product Violations Reporting Form.

DATES: Either electronic or written comments on the collection of information must be submitted by August 24, 2026

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 24, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2026–N–6540 for ''Potential Tobacco Product Violations Reporting Form.'' Received comments, those filed in a timely manner (*see* **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Amber Barrett, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Potential Tobacco Product Violations Reporting Form

OMB Control Number 0910–0716—Extension

This information collection supports the opportunity to accept consumer and other stakeholder feedback and notification of potential violations of the FD&C Act, as amended by the Tobacco Control Act. Tobacco products are generally governed by chapter IX of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (sections 900 through 920) (21 U.S.C. 387 through 21 U.S.C. 387u). The FD&C Act provides FDA authority to monitor compliance with Federal tobacco laws and regulations and take corrective action when violations occur.

As part of its enforcement strategy, FDA accepts information from the public regarding potential tobacco product violations of the FD&C Act. Potential tobacco product violations include (but are not limited to): (1) sales to underage purchasers (persons under 21); (2) flavored cigarette sales; (3)

illegal marketing and advertising; (4) distribution of free samples of tobacco products except in limited circumstances; (5) placement of cigarette or smokeless tobacco product vending machines in prohibited areas (or providing access to self-service or direct access of tobacco products in prohibited areas); (6) the manufacture or sale of unauthorized tobacco products; and (7) sale of cigarettes in packages of less than 20.

FDA currently provides a form that may be used to collect this information from the public (Form FDA 3779, Potential Tobacco Product Violations Report). The Potential Tobacco Product Violations Report, Form FDA 3779, asks for the following information: (1) date potential violation occurred; (2) product type (*e.g.,* cigarette, smokeless, roll-your-own, cigar, e-cigarette, hookah, pipe tobacco); (3) tobacco brand; (4) potential violation type; (5) type of potentially violative promotional materials; (6) description of the potential violation (7) who potentially violated; (8) name and address of the potential violator (if known); (9) potential violator's website or internet address URL (if available); (10) Optional filer contact information if additional information is needed or to receive notification the complaint was received; and (11) any additional files or information pertinent to the potential violation.

The public and interested stakeholders can report possible tobacco product violations of the FD&C Act by submitting information on Form FDA 3779 online, via email or postal mail, or by calling FDA's Tobacco Call Center. Information on how to submit possible tobacco product violations using the options above can be found at *https://www.accessdata.fda.gov/scripts/ptvr/index.cfm.* Further details about reporting possible tobacco product violations of the FD&C Act can also be found at *https://www.fda.gov/tobacco-products/compliance-enforcement-training/report-potential-tobacco-product-violation.*

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity and form FDA 3779	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response in hours	Total hours
Reporting potential tobacco product violations of the FD&C Act.	3,000	2	6,000	0.25 (15 minutes)	1,500

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden hour estimates for this collection of information were based on the type and rate of reporting submitted through the Potential Tobacco Violation Report Form and based on a review of the information collection since our last request for OMB approval. FDA estimates that submitting the information (online, telephone, email, or mail) will take 0.25 hours (*i.e.,* 15 minutes) per response.

FDA estimates the number of annual respondents to this collection of information will be 3,000, who will each submit 2 reports. Each report is expected to take 0.25 hours to complete and submit; therefore, total burden hours for this collection of information is estimated to be 1,500 hours (6,000 responses × 0.25 hours per response).

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–12577 Filed 6–22–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Tissue Engineering Study Section.

Date: July 16–17, 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: Thomas Zeyda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–6921, *thomas.zeyda@nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroimmunology and Brain Tumors Study Section.

Date: July 16–17, 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: Dario Dieguez, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–2754, *dario.dieguez@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Neurobiology of Psychiatric and Neurological Disorders and Language Development.

Date: July 16, 2026.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Alicia Mariel Jais, PHMD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 435–3343, *mariel.jais@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Bioengineering, Bioinformatics, Imaging and Technology Development in Neuroscience.

Date: July 16, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.
Contact Person: Soyoun Cho, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Rm. 1011–G, National Institutes of Health, Bethesda, MD 20892, (301) 594–6593, *Soyoun.cho@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training: Gastroenterology, Hepatology and Nutrition.
Date: July 16, 2026.
Time: 9:00 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Jian Yang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 451–1623, *yangj@extra.niddk.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Respiratory Topic.
Date: July 16, 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: Hangyi Yan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–2061, *Hannah.Yan@NIH.gov*.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Hepatobiliary Pathophysiology Study Section.
Date: July 16, 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: Aiping Zhao, M.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, Bethesda, MD 20892–7818, (301) 435–0682, *zhaoa2@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in cellular and molecular mechanisms of the nervous system.
Date: July 16–17, 2026.
Time: 9:30 a.m. to 6:30 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Ipolia R. Ramadan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–7610, *ramadanir@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Catalyze Research on Heart, Lung, Blood, and Sleep (HLBS) Diseases and Disorders.
Date: July 16–17, 2026.
Time: 9:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Tianhong Wang, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–9259, *wangt3@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Basic Cancer Mechanisms and Therapeutics.
Date: July 16, 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: Bruce Daniel Hissong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Rm. 806E, Bethesda, MD 20892, (301) 443–3904, *bruce.hissong@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–23–110: Biomedical Technology Optimization and Dissemination Center (BTOD) (RM1).
Date: July 16–17, 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: Susan Wohler Sunnarborg, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–7912. *susan.sunnarborg@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Psychopathology and Cognitive Disorders.
Date: July 16, 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: Mamatha Garige, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 443–1706, *mamatha.garige@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Projects: Clinical Care, Treatment & Disease Management.
Date: July 16–17, 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: Karen Nieves Lugo, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–5933, *karen.nieveslugo@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Infectious Diseases and Immunology B Review Panel.
Date: July 16, 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: Diana Maria Ortiz-Garcia, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–5614, *diana.ortiz-garcia@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 17, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–12565 Filed 6–22–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Health

Promotion and Interventions at the Individual Level.
Date: July 16, 2026.
Time: 9:00 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Andrea B Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–8897, *kellya2@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Endocrine and Metabolic Systems.
Date: July 16, 2026.
Time: 10:00 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: Elena Sanovich, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 827–3051 *sanoviche@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Brain Injury and Neurological Impairment.
Date: July 16, 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: Samah Jafari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1141 *jafaris2@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA/PAR Panel: Discovery and Development of Drugs and Biomarkers for Vision and Neurological Disorders.
Date: July 16, 2026.
Time: 10:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Kathryn Partlow, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1016D, Bethesda, MD 20892, (301) 594–2138 *partlowkc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Outcomes of Electronic Medical Records and Genomics (eMERGE) Coordinating Center.
Date: July 16, 2026.
Time: 4:00 p.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: Shiv A Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 159–4437 *shiv.prasad@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Outcomes of Electronic Medical Records and Genomics (eMERGE) Clinical Sites.
Date: July 16, 2026.
Time: 12:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Shiv A Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 159–4437 *shiv.prasad@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Gastroenterology, Hepatology and Nutrition.
Date: July 17, 2026.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Jian Yang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 451–1623 *jian.yang@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Health and Medical Technologies for Clinical Decision Making.
Date: July 17, 2026.
Time: 9:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Siddhartha Shankar Roy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–4321 *royss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Neurodevelopment, Oxidative Stress and Synaptic Plasticity.
Date: July 17, 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: Vanessa S Boyce, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4185, MSC 7850, Bethesda, MD 20892, (301) 402–3726 *boycevs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Research Enhancement Awards review meeting.
Date: July 17, 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: Abhignya Subedi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–6143 *abhi.subedi@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; NIH Health Services and Systems: Career Development Award Grant Review.
Date: July 17, 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: Claudio Dario Ortiz, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–2073 *claudio.ortiz@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Radiation Therapeutics.
Date: July 17, 2026.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Robert F Gahl, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 808 F, Bethesda, MD 20892, (301) 480–9675, *robert.gahl@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–25–156: Limited Competition: High Impact Specialized Innovation Programs in Clinical and Translational Science (RC2).
Date: July 17, 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: John Harold Laity, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–8254, *laityjh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Engineering Improved Stem Cell-Derived Islet Cells for Replacement Therapies.

Date: July 17, 2026.
Time: 10:00 a.m. to 3:00 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: Victoria Martinez Virador, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–4703, *victoria.virador@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Urological Systems Function and Dysfunction.
Date: July 17, 2026.
Time: 10:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Santanu Banerjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2106, Bethesda, MD 20892, (301) 435–5947, *banerjees5@mail.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 18, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–12614 Filed 6–22–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Chimpanzee Research Use Form (Office of the Director)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the Office of Laboratory Animal Welfare (OLAW), Office of the Director (OD), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received July 23, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Jane J. Na, Director, Division of Assurances, Office of Laboratory Animal Welfare, NIH, or call non-toll-free number (301) 496–7163 or Email your request, including your address to: *olawdoa@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on February 19, 2026, page 8014 (91 FR 8014) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The Office of the Director, National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to OMB a request for review and approval of the information collection listed below.

Proposed Collection: Chimpanzee Research Use Form, 0925–0705, expiration date 7/31/2026, EXTENSION, Office of Laboratory Animal Welfare (OLAW), Office of the Director (OD), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose of this form is to continue to obtain information needed by the NIH to assess whether the proposed research satisfies the agency's policy for permitting only noninvasive research involving chimpanzees. The NIH will consider the information submitted through this form prior to the agency making funding decisions or otherwise allowing the research to begin. Completion of this form is a mandatory step toward continuing to receive NIH support or approval for noninvasive research involving chimpanzees. The NIH does not fund any research involving chimpanzees proposed in new or other competing projects (renewals or revisions) unless the research is consistent with the definition of ''noninvasive research,'' as described in the ''Standards of Care for Chimpanzees Held in the Federally Supported Chimpanzee Sanctuary System'' (42 CFR part 9). Also see NOT–OD–16–095 at *https://grants.nih.gov/grants/guide/notice-files/NOT-OD-16-095.html* and 81 FR 6873.

OMB approval is requested for three years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 15.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Chimpanzee Research Use Form	Research Community	30	1	30/60	15
Total			30		15

The Deputy Director for Extramural Research, Jon Lorsch, having reviewed and approved this document, authorizes Alycia Booth, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: June 18, 2026.

Alycia Booth,

Federal Register Liaison, National Institutes of Health.

[FR Doc. 2026–12585 Filed 6–22–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7107–N 10; OMB Control No.: 2577–0200]

30-Day Notice of Proposed Information Collection: Section 184 and 184A Loan Guarantee Program

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 comments from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* July 23, 2026.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Anna Guido, PRA Compliance Officer, Paperwork Reduction Act Division, PRAD, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410; email at *PaperworkReductionActOffice@hud.gov,* ATTN: Anna Guido, telephone (202) 402–5535. This is not a toll-free number. HUD welcomes and is prepared to receive calls om 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. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 13, 2025 at 90 FR 25068.

A. Overview of Information Collection

Title of Information Collection: Section 184 and 184A Loan Guarantee Program.

OMB Approval Number: 2577–0200.

Type of Request: Reinstatement with change of a previously approved collection.

Form Number: All the forms are new to the Section 184 Program. HUD–50097, HUD–50098, HUD–50101, HUD–50102, HUD–50103, HUD–50104, HUD–50105, HUD–50106, HUD–50107, HUD–50108, HUD–50109, HUD–50111, HUD–50114, HUD–50129, HUD–50131, and HUD–50175. All other forms referenced in the collection remain active and unchanged.

Description of the need for the information and proposed use: The information collected on the forms is to be provided by Tribes, lenders, borrowers, servicers and building inspectors with loans guaranteed by the Section 184 and Section 184A Program. With respect to the information collection from Tribes, the information will be used by HUD to determine the land status and jurisdiction for Section 184 loans on Tribal Trust lands. In particular, HUD requires the submission of land status information by the Tribe and requires a Tribal contact and Tribal official signature affirming it has jurisdiction over the Property that will be used as the security interest in the Section 184 loan.

With respect to the information collection from lenders and home inspectors, the information will be used to determine whether a loan is eligible for a loan guarantee under the Section 184 Indian Housing Loan Guarantee program and/or the Section 184A Native Hawaiian Housing Loan Guarantee program. Specifically these forms will be used for: (1) requesting a case number from HUD; (2) requesting a firm commitment of the loan guarantee certificate from HUD; (3) providing additional, program specific information as an addendum to the Uniform Residential Loan Application; (4) providing HUD a justification for an escrow account and an assurance of completion for work to be done on the Property after loan closing; (5) confirming borrower acknowledgment for the use of loan funds in a Section 184 or Section 184A Single Close Construction loan; (6) providing additional information to HUD when the Property is a condominium; (7) submitting builders certification of plans and specs and changes to approved drawings and plans; and (8) providing an analysis of a borrower's mortgage credit, settlement costs and mortgage calculations for the loan guarantee certificate application. Housing inspectors will submit information to HUD regarding inspections performed when a Section 184 loan is used for the construction of a home. This information collection also includes administrative documents for when a lender requests a loan guarantee claim payment and when reporting a change in lender or servicer on the Section 184 or the Section 184A loan.

With respect to information collected from the servicers, the information will be used by HUD to approve or deny a servicer's request from HUD for an extension of the filing of first legal action or an increase in the property preservation costs. Information collected also includes when a Servicer requests variances to a pre-foreclosure sale.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Lender Reservation of Funds Request HUD–50097	3,750	1	3750	0.08	300	$25.25	$7,575
Lender Assurance of Completion HUD–50098	350	1.00	350	0.05	17.5	25.25	441.88
Single Close Construction Rehab Acknowledgement HUD–50101	350	1.00	350	0.03	10.5	25.25	265.13
Condominium Loan Level Single-Unit Approval Questionnaire HUD–50102	100	1.00	100	0.13	13	25.25	328.25
Extension of Time Request HUD–50103	150	1.00	150	0.25	37.5	42.21	1,582.88
Exceed Cost limit for PPP Request HUD–50104	150	1.00	150	0.25	37.5	42.21	1,582.88
Compliance Inspection Report HUD–50105	350	1.00	350	0.25	87.5	37.37	3,269.88
Mortgage Record Change HUD–50106	100	1	100	0.25	25	25.25	631.25
Builders Certification of Plans, Specs and Site HUD–50107	350	1	350	0.25	87.5	25.25	2,209.38

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Pre-foreclosure Sale Program Request for Variance HUD–50108	25	1	25	0.25	6.25	42.21	263.81
Request for Acceptance of Changes Approved Drawings and Specifications HUD–50109	175	1	175	0.50	87.5	25.25	2,209.38
Addendum to Uniform Residential Loan Application HUD–50111	3,750	1	3,750	0.13	487.5	25.25	12,309.38
Tribal Land Status Jurisdiction HUD–50114	450	1	450	0.03	13.5	22.32	301.32
Loan Guarantee Fee Refund Request HUD–50129	100	1	100	0.33	33	25.25	833.25
Case Number Request Form HUD–50131	3,750	1	3,750	0.08	300	25.25	7,575
Section 184 MCAW HUD–50175	3,750	1	3,750	0.17	637.5	25.25	16,096.88
Forms Approved in 2024							
Section 184 Tribal Application HUD–50172	6	1	6	0.33	1.98	22.32	44.19
Section 184 Tribal Annual Recertification HUD–50171	226	1	226	0.17	38.42	22.32	857.53
Section 184 Borrower's Authorization of Tribal Notification HUD–50177	3,750	1	3,750	0.05	187.5	42.21	7,914.38
Section 184/184A Borrower's Identity of Interest and Conflict of Interest Certification HUD–50173	3,750	1	3,750	0.05	187.5	42.21	7,914.38
Section 184 Lender Application HUD–50178	32	1	32	0.08	2.56	42.21	108.06
Section 184/184A Lender Annual Recertification HUD–50174	150	1	150	0.25	37.5	42.50	1,593.75
Section 184/184A Warranty of Completion HUD–50176	350	1	350	0.03	10.5	42.21	443.21
Section 184 Notice of Conveyance of Deed to HUD HUD–50179	115	1	115	0.33	37.95	42.21	1,601.87
Section 184 Pre-Foreclosure Sale Program Agreement HUD–50180	25	1	25	0.15	3.75	42.21	158.29
Section 184 Pre-Foreclosure Sale Program Sales Contract Review HUD–50170	25	1	25	0.25	6.25	42.21	263.81
Section 184 Pre-Foreclosure Sale Program Closing Worksheet HUD–50169	25	1	25	0.25	6.25	42.21	263.81
Total	26,104		26,104		2,701.41		78,639.83

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

Anna Guido,

Department PRA Compliance Officer, Office of Policy Development and Research, Chief Data Officer.

[FR Doc. 2026–12533 Filed 6–22–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2026–0100]

Commercial Leasing for Outer Continental Shelf Minerals Offshore the Commonwealth of Virginia—Request for Information and Interest

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Request for information and interest.

SUMMARY: On November 13, 2025, the Bureau of Ocean Energy Management (BOEM) received an unsolicited request to lease hard minerals (herein ''minerals'') in an area on the Outer Continental Shelf (OCS) offshore the Commonwealth of Virginia. After reviewing the request, BOEM decided to initiate the first step that could potentially lead to a lease sale by publishing this request for information and interest (RFI). This RFI is not a final decision to lease the minerals and does not prejudge any future Secretarial decisions concerning leasing offshore the Commonwealth of Virginia. This RFI requests information and comments on, and indications of interest in, the leasing of OCS minerals in and around the area identified in this RFI (hereby referred to as the RFI Area). BOEM will consider information and interest received in response to this RFI when considering whether to proceed with additional steps leading to the offering of OCS minerals for lease offshore the Commonwealth of Virginia. Those interested in providing comments should provide the information requested in section 6, ''Types of Information and Comments Requested,'' of this RFI. Those interested in leasing in and around the RFI Area for OCS mineral development should provide the types of information described in section 7, ''Requested Information for Indications of Interest.'' BOEM may or may not offer a lease for commercial OCS mineral development offshore the Commonwealth of Virginia after conducting consultations and environmental review, and after considering public comments.

DATES: BOEM must receive all comments, information, and indications of interest in response to this RFI no later than July 23, 2026.

ADDRESSES: Please submit indications of interest in commercial leasing electronically via email to *BOEMVAMineralLeaseSale@boem.gov* or by hard copy by mail to the following address: Bureau of Ocean Energy Management, Office of Strategic Resources, Marine Minerals Division, 45600 Woodland Road, Sterling, Virginia 20166. If you elect to mail a hard copy, also include an electronic

copy on a portable storage device. Do not submit indications of interest via the Federal eRulemaking Portal.

Please submit all other comments and information as discussed in section 6, entitled ''Types of Information and Comments Requested,'' by either of the following two methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* In the search box at the top of the web page, enter BOEM–2026–0100 and then click ''search.'' Follow the instructions to submit public comments and to view supporting and related materials.

2. *By mail to the following address:* Bureau of Ocean Energy Management, Office of Strategic Resources, Marine Minerals Division, 45600 Woodland Road, Sterling, Virginia, 20166.

Treatment of confidential information is addressed in section 8 of this notice entitled, ''Protection of Privileged, Personal, or Confidential Information.'' BOEM will post all comments received on regulations.gov unless labeled as confidential and BOEM determines that an exemption from disclosure applies.

FOR FURTHER INFORMATION CONTACT: Geoffrey Wikel, Bureau of Ocean Energy Management, Office of Strategic Resources, 45600 Woodland Road, Sterling, Virginia, 20166, at *BOEMVAMineralLeaseSale@boem.gov,* 703–787–1283.

SUPPLEMENTARY INFORMATION: The OCS Lands Act (43 U.S.C. 1331 *et seq.*) declares that it is the policy of the United States that the OCS ''is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs.'' *Id.* at 1332(3). BOEM requests information and comments from Federally Recognized Indian Tribes, Federal agencies, state and local governments, environmental and other public interest organizations, the marine mineral mining and dredging industries, other interested organizations and entities, and the public, for use in the consideration of whether to offer OCS minerals for lease offshore the Commonwealth of Virginia. BOEM is seeking a wide array of information, including but not limited to information on the potential impact of OCS mineral exploration and development on OCS resources and the marine, coastal, and human environments. This RFI is published under the OCS Lands Act, 43 U.S.C. 1337(k)(1), and its implementing regulations at 30 CFR 581.12.

1. Public Comment Procedure

BOEM's strong preference is to receive comments via *regulations.gov*, except when a comment contains proprietary information. Comments should include the full name and address of the individual submitting the comment(s). Before including personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made publicly available. While you can ask BOEM in your comment to withhold your personal identifying information from public review, BOEM cannot guarantee that we will be able to do so. Even if BOEM withholds your information in the context of this RFI, your submission is subject to the Freedom of Information Act (FOIA), and if your submission is requested under the FOIA, your information will only be withheld if a determination is made that one of the FOIA's exemptions to disclosure applies. Such a determination will be made in accordance with the Department of the Interior's (DOI) FOIA regulations and applicable law.

2. Background Information

Section 8(k) of the OCS Lands Act (43 U.S.C. 1337(k)) authorizes the Secretary of the Interior to grant leases on the OCS to qualified persons offering the highest cash bonuses for minerals other than oil, gas, and sulfur on a competitive basis. The Trump Administration recognizes that an overreliance on foreign critical minerals and their derivative products could jeopardize U.S. defense capabilities, infrastructure development, and technological innovation. To support and facilitate domestic production of critical minerals, the Trump Administration has issued a series of Executive Orders (E.O.s), including E.O. 14156, ''Declaring a National Energy Emergency'' (January 20, 2025); E.O. 14154, ''Unleashing American Energy'' (January 20, 2025); and E.O. 14285, ''Unleashing America's Offshore Critical Minerals and Resources'' (April 24, 2025). The Secretary of the Interior also issued Secretary's Order (SO) 3417, ''Addressing the National Energy Emergency'' (February 3, 2025) and SO 3418, ''Unleashing American Energy'' (February 3, 2025), which direct DOI bureaus to responsibly facilitate and expedite OCS critical mineral permitting, leasing, and development.

On November 13, 2025, a United States based company, Odyssey Marine Exploration (OME), submitted an unsolicited request for a mineral lease sale offshore the Commonwealth of Virginia. BOEM conducted an evaluation of the request, including the area proposed for leasing, the OCS minerals of primary interest (*i.e.,* heavy minerals sands and phosphorites), and the available OCS mineral resource and environmental information pertaining to the area of interest. On December 12, 2025, pursuant to 30 CFR 581.11(b), BOEM announced the initiation of the steps that could potentially lead to an OCS mineral lease sale.

In response to the E.O.s, SOs, and the unsolicited mineral lease sale request, BOEM is taking immediate action to accelerate the responsible exploration and development of OCS mineral resources with the publication of this RFI.

The initiation of this process has the potential to advance America's national security and future prosperity through the identification of and access to OCS minerals, which include those minerals identified as critical minerals by Federal statute and as defined by the Secretary of the Interior. Pursuant to Section 7002 of the Energy Act of 2020 (Pub. L. 116–260, Division Z), critical minerals are defined as any minerals, elements, substances, or materials that are determined to be essential to the economic and national security of the United States, have a supply chain vulnerable to disruption, and play an essential role in manufacturing a product whose absence would significantly affect U.S. economic or national security. On November 7, 2025, the Secretary of the Interior, through the U.S. Geological Survey, identified 60 critical minerals with 43 of these minerals being found on the OCS (90 FR 50494).

If a lease is issued, it would grant to the lessee the right to conduct preliminary activities and, with prior BOEM approval, to explore, develop, and produce leased minerals from the lease area, unless reserved as explained in 30 CFR 581.8. Exploration, development, and production is contingent on BOEM's evaluation and approval of delineation, testing, and mining plans submitted by the lessee. The only operations permissible under a lease without prior review and approval are preliminary activities as defined in 30 CFR 582.21(d). If BOEM proceeds with the critical minerals planning and leasing process for the area identified offshore Virginia, the environmental review completed by BOEM will focus on preliminary activities. Subsequent operations described in 30 CFR part 582 will be subject to additional environmental review.

Upon publication of this RFI, BOEM intends to engage with the Government of the Commonwealth of Virginia, relevant OCS users, and Federal agencies including, but not limited to, the U.S. Fish and Wildlife Service; the National Park Service; the U.S. Army Corps of Engineers; the U.S. Coast Guard; the National Oceanic and Atmospheric Administration; the Department of War; the National Aeronautics and Space Administration; and the Mid-Atlantic Regional Council on the Ocean (MARCO), which is a Congressionally-authorized Regional Ocean Partnership established by the governors of Virginia, Maryland, Delaware, New Jersey and New York. BOEM also intends to engage with Federally Recognized Indian Tribes, consistent with the Department of the Interior Tribal Consultation Policy, regarding economic, environmental, and public health concerns with OCS mineral development throughout the OCS mineral planning and leasing process. In addition, BOEM considers other information when conducting its lease sale decision-making processes, including available data and information on the location of marine life and habitat areas, cultural resources, transportation links, fishing areas, and other human uses.

3. BOEM's Leasing Process

BOEM will follow the steps required by 30 CFR 581.11 through 581.23 if it decides to proceed with the competitive leasing process after analyzing the responses to this RFI. Briefly, those steps are:

(1) OCS Mining Area Identification: BOEM will select tracts to be considered for offering of a lease. The selected tracts will be considered in the environmental analysis conducted for the proposed lease offering.

(2) Proposed Leasing Notice (PLN): BOEM will publish a PLN in the **Federal Register** at least 60 days prior to the publication of a final leasing notice. The PLN will describe the areas that BOEM intends to offer for leasing; proposed primary terms of the OCS mineral leases to be offered; lease stipulations, including measures to mitigate potentially adverse impacts on the environment; and such rental, royalty, and other terms and conditions that BOEM may prescribe in the leasing notice.

(3) Final Leasing Notice (FLN): If it decides to proceed to conduct a lease sale, BOEM will publish a FLN in the **Federal Register** at least 30 days before the date of the lease sale. The FLN will state whether oral or sealed bids or a combination thereof will be used; the place, date, and time at which sealed bids will be filed (if applicable); and the place, date, and time at which bids are received. The FLN will contain or reference a description of the tract(s) to be offered for lease; specify the mineral(s) to be offered for lease (if not all OCS minerals are being offered); specify the period of time the primary term of the lease will cover; and any lease stipulations, terms, and conditions. Additionally, the FLN will include a reference to the OCS mineral lease form that will be issued to successful bidders and specify the terms and conditions governing the payment of the winning bid.

(4) Bid Submission and Evaluation: BOEM will offer the lease area(s) through a competitive, cash bonus bidding process under terms and conditions specified in the FLN.

(5) Issuance of a Lease: Following identification of a winning qualified bidder, BOEM will notify that bidder and provide the lease documents for signature.

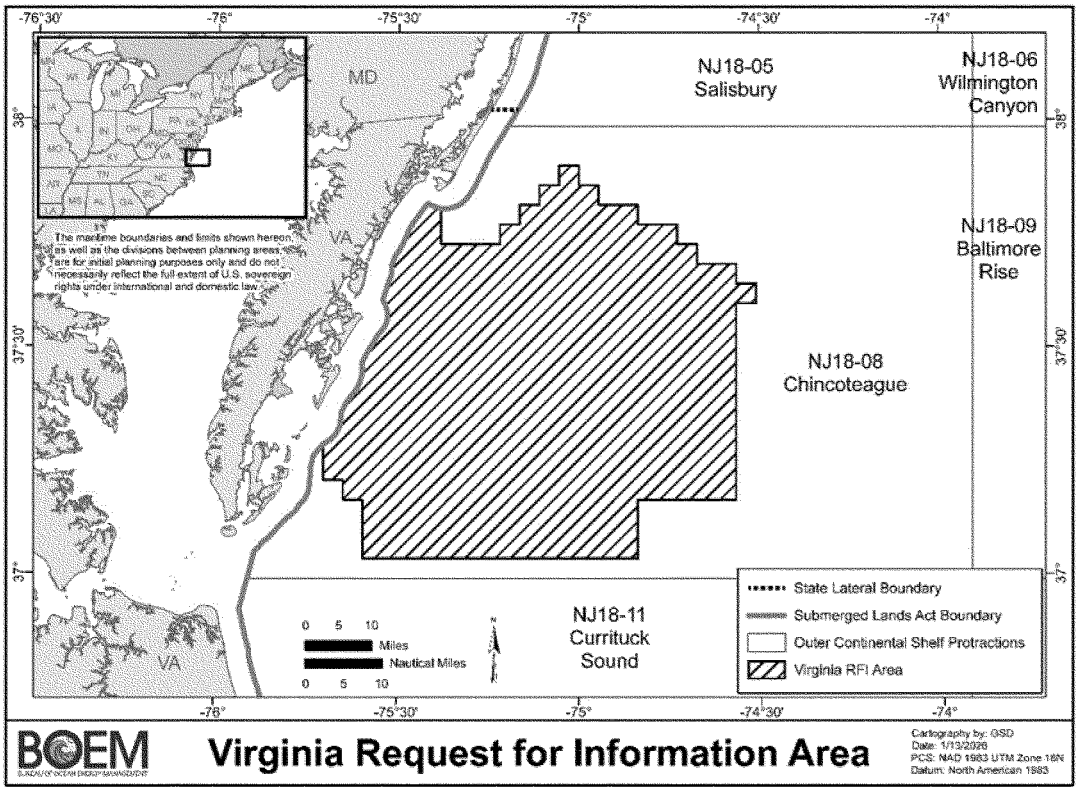
4. Purpose of the RFI

The purpose of this RFI is to gather comments, information, and indications of interest from any interested parties for a potential OCS mineral lease sale offshore the Commonwealth of Virginia. This RFI is one of the initial steps in the process to ensure that all interests and concerns are considered for future leasing decisions. This does not mean that DOI or BOEM have reached a decision about whether or under what circumstances to lease in this area. BOEM will consider information and comments received that may identify any potential environmental impacts, multiple use conflicts, and ways to eliminate, mitigate, and monitor for impacts to assist in future analysis and leasing decisions. The input received may help BOEM determine the scope of the National Environmental Policy Act (NEPA) review that BOEM would need to prepare to support the lease sale. BOEM will also determine if any responses identify specific areas of interest in and around the RFI Area that could support commercial mineral development, potential conflicts among offshore activities and the Commonwealth of Virginia's Coastal Zone Management Plan, and any requirements that could ensure safe and environmentally responsible activities should any leases be issued.

5. Description of the RFI Area

The RFI Area is derived from the area of interest identified in the unsolicited mineral lease sale request submitted by OME on November 13, 2025. The RFI Area is located between three and 63.5 miles offshore of the Delmarva Peninsula seaward of Accomack and Northampton counties in the Commonwealth of Virginia and lies entirely on the OCS of the United States. This area is comprised of approximately 1,769,196 acres (2,764 square miles) with an approximate water depth of 30—410 feet (9—125 meters). The RFI Area is located on the continental shelf and includes 301 whole and 19 partial OCS lease blocks. BOEM plans to refer to Official Protraction Diagrams, whole or partial OCS lease blocks, and aliquots for the purpose of area identification and tract size specification. This is consistent with previous RFIs issued related to OCS mineral lease sales and the practice used by BOEM for other OCS leasing activities (*e.g.,* oil and gas, other minerals). The map depicting the RFI Area (Figure 1), a spreadsheet listing its specific OCS blocks, and an Esri shapefile are available for download on the BOEM website at: *https://www.boem.gov/marine-minerals/discovering-offshore-critical-mineral-resources-atlantic-outer-continental-shelf.*

Figure 1: Request for Information and Interest (RFI) Area



BOEM is seeking to identify one or more locations suitable for OCS mineral development in and around the RFI Area. Respondents may nominate areas of interest and comment on any OCS acreage in and around the RFI Area. The RFI Area is not necessarily indicative of the area that may ultimately be offered for lease. Responses to this RFI will help determine lease tract size and block configurations for potential leasing. If BOEM proceeds with the leasing process, tract sizes will be proposed in the PLN and finalized in the FLN.

6. Types of Information and Comments Requested

BOEM invites comments from anyone who would like to submit information and suggestions for BOEM's consideration in determining, among other things, the appropriate size and location of potential OCS mineral leasing in and around the RFI Area. Commenters should be as specific and detailed as possible. Where applicable, spatial information should be submitted in a format compatible with Esri ArcGIS (Esri shapefile, Esri file geodatabase, KML (Keyhole Markup Language), GeoJSON, or GeoPackage) in the WGS84 geographic coordinate system. BOEM is requesting information on the following:

a. Information concerning the offering of a specific OCS mineral, a group of OCS minerals, or all OCS minerals (other than oil, gas, and sulfur) for lease in and around the RFI Area or the offering of one or more discrete tracts which represent a minable orebody.

b. Geological conditions, archaeological resources, or potential hazards on the seabed in and around the RFI Area.

c. Multiple uses in and around the RFI Area, including shipping, navigation, and recreation.

d. Socioeconomic, biological, and environmental information in and around the RFI Area or analogous sites for comparative analysis; potential impacts of leasing and mining activities to these resources; and methods to eliminate, mitigate, and monitor for impacts.

e. Information regarding commercial, Tribal, and recreational fisheries, including but not limited to, the use of the areas, the fishing gear types used, seasonal use, and recommendations for reducing use conflicts.

f. Relative environmental sensitivity and marine productivity in and around the RFI Area.

g. Information on the preliminary activities necessary to develop comprehensive delineation, testing, or mining plans, particularly the types of any necessary surveys and associated equipment.

h. Information on the types of potential activities associated with future delineation, testing, or mining of OCS minerals.

i. Information concerning the relationship between OCS mineral leasing and the Virginia Coastal Zone Management Program administered under Section 305 or Section 306 of the Coastal Zone Management Act of 1972, as amended, (16 U.S.C. 1454 and 1455).

j. Information relevant to Federally Recognized Indian Tribes and the potential presence of traditional cultural properties (TCPs), cultural landscapes, and other places of cultural, spiritual, or historical importance in or adjacent to the RFI Area. BOEM also invites recommendations for avoiding or minimizing potential effects to such areas during planning and analysis. BOEM understands that some information regarding TCPs may be sensitive and encourages respondents to identify any confidentiality concerns associated with their submissions. BOEM will protect confidential information shared in response to this RFI to the extent authorized by Federal law. Treatment of confidential information is addressed in section 8 of this notice entitled, ''Protection of Privileged, Personal, or Confidential Information.''

k. Socioeconomic information for communities potentially affected by OCS mineral leasing in and around the RFI Area, including community profiles, vulnerability, and resiliency data. BOEM is also requesting comments on

how best to engage with these communities.

l. Information from the marine minerals industry on the considerations for OCS mineral development in and around the RFI Area, such as water depth, seafloor conditions, operational challenges, mineral extraction feasibility, offtake strategies, proximity to processing centers, costs, and other relevant items.

m. Information on the appropriate lease size and number of mineral leases BOEM should offer. Each lease area would consist of contiguous full or partial OCS blocks and likely be of a size that could reasonably be developed under typical industry practices.

n. Information on what a reasonable and fair rental rate would be for an OCS mineral lease offshore the Commonwealth of Virginia. Should adjustment or suspension of rental payments be allowed under certain conditions, such as geologic, geographic, technical, or economic factors? If so, what specific conditions should apply?

o. The regulations at 30 CFR 581.26(h) and 30 CFR part 1206, subpart G, establish a framework for valuing production for royalty purposes. If BOEM proceeds with a lease sale offshore the Commonwealth of Virginia, BOEM intends to apply a royalty to all marketable mineral production. BOEM is seeking information on potential royalty rates and schedules that would effectively serve as both an incentive for development and assure a fair return to the public for extracted minerals. The royalty schedule may be modified from the provisions in 30 CFR 581.28(b) and may include a flat royalty on all marketed mineral production.

p. Information on appropriate bid deposit, minimum bid levels, and preferred auction format (sealed bid or ascending). BOEM is evaluating the use of an ascending oral bid auction format and is considering limiting bidders to one lease area per lease sale if multiple areas are offered. Please note that OCS mineral leases will be awarded solely through competitive cash bids.

q. Information on the primary lease term and related conditions that BOEM should consider, including information on the appropriate duration of the primary term. Please note that the term could potentially be a 10-year term for sand and gravel or a 20-year term for marine minerals other than sand and gravel.

r. BOEM invites public comment on whether there are any barriers to leasing and production of marine minerals that commenters think BOEM should be aware of, including regulatory barriers.

7. Requested Information for Indications of Interest

Indications of interest for specific areas and the accompanying rationale are extremely useful in helping BOEM understand and model the commercial viability and technical feasibility of mining portions of the OCS. BOEM requests that respondents nominate specific blocks or acreage within the RFI Area that are of particular interest for consideration in a possible OCS mineral lease sale. Nominations must be depicted on a map of the RFI Area with the area(s) of interest clearly outlined. Where applicable, interested companies should submit spatial information in a format compatible with Esri ArcGIS (Esri shapefile, Esri file geodatabase, KML (Keyhole Markup Language), GeoJSON, or GeoPackage) in the WGS84 geographic coordinate system.

If you wish to indicate interest in obtaining a commercial OCS mineral lease in one or more areas within or around the RFI Area, you should provide the following information for each area of interest:

(a) The area to be offered for lease.

(b) The OCS minerals of primary interest.

(c) The available OCS mineral resource, geological, archaeological resources, and environmental information (including methods to eliminate, mitigate, and monitor for potential impacts) pertaining to the area of interest to be offered for lease.

Although the identities of those indicating interest in specific areas in response to this RFI become a matter of public record, their indications of interest in specific areas are considered proprietary information. BOEM will not release information that associates any particular area of interest or nomination with any particular party, so as not to compromise the competitive position of any participants. Respondents may rank areas of specific interest according to priority: 1 (high), 2 (medium), and 3 (low). Please include in your response the name and telephone number of a person in the respondent's organization that BOEM can contact for additional information or clarification. Please submit indications of interest in commercial leasing electronically via email to *BOEMVAMineralLeaseSale@boem.gov* or by hard copy by mail to the following address: Bureau of Ocean Energy Management, Office of Strategic Resources, Marine Minerals Division, 45600 Woodland Road, Sterling, Virginia 20166. If you elect to mail a hard copy, also include an electronic copy on a portable storage device. Do not submit indications of interest via the Federal eRulemaking Portal.

8. Protection of Privileged, Personal, or Confidential Information

a. Freedom of Information Act

BOEM will protect privileged or confidential information that you submit when required by FOIA. Exemption 4 of FOIA applies to trade secrets and commercial or financial information that is privileged or confidential. If you wish to protect the confidentiality of such information, clearly label it and request that BOEM treat it as confidential. BOEM will not disclose such information if BOEM determines that it qualifies for exemption from disclosure under FOIA. Please label privileged or confidential information ''Contains Confidential Information'' and consider submitting such information as a separate attachment.

BOEM will not treat as confidential any aggregate summaries of such information or comments not containing such privileged or confidential information. Information that is not labeled as privileged or confidential may be regarded by BOEM as suitable for public release.

b. Personally Identifiable Information

BOEM discourages the submission of anonymous comments. Please include your name and address as part of your comment. You should be aware that your entire comment, including your name, address, and any personally identifiable information (PII) or otherwise sensitive information included voluntarily in your comment may be made publicly available. All submissions from identified individuals, businesses, and organizations will be available for public viewing on *regulations.gov.* Note that BOEM will make available for public inspection all comments, in their entirety, submitted by organizations and businesses, or by individuals identifying themselves as representatives of organizations or businesses.

For BOEM to consider withholding your PII from disclosure, you must identify any information contained in 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. Even if BOEM withholds your information in the context of this RFI, your submission is subject to FOIA and, if your submission is requested under FOIA, your

information will be withheld only if a determination is made that one of FOIA's exemptions to disclosure applies. Such a determination will be made in accordance with the Department's FOIA regulations and applicable law.

c. Section 304 of the National Historic Preservation Act (NHPA) (54 U.S.C. 307103(a))

After consultation with the Secretary, BOEM is required to withhold the location, character, or ownership of historic resources if it determines that disclosure may, among other things, risk harm to the historic resources or impede the use of a traditional religious site by practitioners. Federally Recognized Indian Tribes, communities, and organizations should designate information that falls under Section 304 of the NHPA as confidential. If appropriate, BOEM may also use submitted information to support the Section 106 consultation required by the NHPA related to historic preservation concerns and in part address the commenting requirements noted in 36 CFR part 800.

Matthew N. Giacona,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2026–12600 Filed 6–22–26; 8:45 am]

BILLING CODE 4340–98–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–779 and 731–TA–1765—1766 (Final)]

Chromium Trioxide From India and Turkey; Revised Schedule for the Subject Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: June 17, 2026.

FOR FURTHER INFORMATION CONTACT: Laurel Schwartz (202–205–2398), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter 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 (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On May 14, 2026, the Department of Commerce (''Commerce'') published its preliminary affirmative determination in the countervailing duty (''CVD'') investigation on chromium trioxide from India and alignment of the final CVD determination with the final determination in the companion antidumping duty (''AD'') investigation of chromium trioxide from India (91 FR 27244, May 14, 2026). On May 22, 2026, Commerce published its preliminary affirmative determinations in the AD investigations on chromium trioxide from India and Turkey, and its postponement of the final determination with respect to India (91 FR 30276 and 30280, May 22, 2026). At that time, Commerce did not postpone its final AD determination with respect to chromium trioxide from Turkey. On May 22, 2026, the Commission established a schedule for the conduct of the final phase of the subject investigations (91 FR 34653, June 8, 2026). Subsequently, Commerce postponed the deadline for issuing its final AD determination with respect to chromium trioxide from Turkey to October 5, 2026, as aligned with its postponed final determinations with respect to chromium trioxide from India (91 FR 36119, June 16, 2026). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's revised dates in the schedule are as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than 5:15 p.m. on September 23, 2026; the prehearing conference will be held at the U.S. International Trade Commission Building on September 25, 2026, if deemed necessary; the prehearing staff report will be placed in the nonpublic record on September 15, 2026; the deadline for filing prehearing briefs is 5:15 p.m. on September 22, 2026; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 29, 2026; the deadline for filing posthearing briefs is 5:15 p.m. on October 7, 2026; the Commission will make its final release of information on October 26, 2026; and final party comments are due on 5:15 p.m. on October 28, 2026.

For further information concerning this proceeding, see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: June 17, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–12532 Filed 6–22–26; 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 Anode Materials for Use in Battery Cells and Batteries, DN 3916;* 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 Sila Nanotechnologies, Inc. and Georgia Tech Research Corporation on June 18, 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 anode materials for use in battery cells and batteries. The complaint names as respondents: Carbon ONE New Energy Group Co., Ltd. of China; Carbon One New Energy (Hangzhou) Co., Ltd. of China; and Zhejiang Lichen New Material Technology Co., Ltd. of China. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, members of the public, and interested government agencies are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3916'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings unless an exemption is granted. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*.) Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.
Issued: June 18, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–12611 Filed 6–22–26; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–649 and 731–TA–1523 (Review)]

Twist Ties From China; Notice of Commission Determination To Conduct Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to the Tariff Act of 1930 to determine whether revocation of the countervailing and antidumping duty orders on twist ties from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date.

DATES: June 5, 2026.

FOR FURTHER INFORMATION CONTACT: Kristina Lara (202–205–3386), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter 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 (*https://www.usitc.gov*). The public record for these reviews may be viewed on the

Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

SUPPLEMENTARY INFORMATION: On June 5, 2026, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)).[1] In response to the Commission's notice of institution (91 FR 10150, March 2, 2026), the Commission found that the domestic interested party group response was adequate and the respondent interested party group response was inadequate. The Commission also found that circumstances justified conducting full reviews. A record of the Commissioners' votes will be available from the Office of the Secretary and at the Commission's website.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: June 17, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–12537 Filed 6–22–26; 8:45 am]

BILLING CODE 7020–02–P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee; Meeting

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Joint Board for the Enrollment of Actuaries gives notice of a meeting of the Advisory Committee on Actuarial Examinations (a portion of which will be open to the public), which will be held at the Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC, on July 13 and 14, 2026.

DATES: Monday, July 13, 2026, from 9:00 a.m. to 5:00 p.m., and Tuesday, July 14, 2026, from 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Van Osten, Designated Federal Officer, Advisory Committee on Actuarial Examinations, at (202) 317–3648 or *elizabeth.j.vanosten@irs.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at the Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, on Monday, July 13, 2026, from 9:00 a.m. to 5:00 p.m. and Tuesday, July 14, 2026, from 8:30 a.m. to 5:00 p.m.

The purpose of the meeting is to discuss topics and questions that may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in 29 U.S.C. 1242(a)(1)(B) and to review the May 2026 Basic (EA–1) Examination and the May 2026 Pension (EA–2L) Examination in order to make recommendations relative thereto, including the minimum acceptable passing scores. Topics for inclusion on the syllabus for the Joint Board's examination program for the November 2026 Pension (EA–2F) Examination will be discussed.

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. 1009(d), that the portions of the meeting dealing with the discussion of questions that may appear on the Joint Board's examinations and the review of the May 2026 Basic (EA–1) and May 2026 Pension (EA–2L) Examinations fall within the exceptions to the open meeting requirement set forth in 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such portions be closed to public participation.

The open portion of the meeting dealing with the discussion of the other topics will commence at 12:00 p.m. on July 13, 2026, and will continue for as long as necessary to complete the discussion, but not beyond 1:00 p.m. Time permitting, after the close of this discussion by Committee members, interested persons may make statements germane to this subject. Persons wishing to make oral statements should contact the Designated Federal Officer at *NHQJBEA@IRS.GOV* and include the written text or outline of comments they propose to make orally. Such comments will be limited to 10 minutes in length. Persons who wish to attend the public session should contact the Designated Federal Officer at *NHQJBEA@IRS.GOV* to obtain access instructions.

Notifications of intent to make an oral statement or to attend the meeting must be sent electronically to the Designated Federal Officer no later than July 6, 2026. In addition, any interested person may file a written statement for consideration by the Joint Board and the Advisory Committee by sending it to *NHQJBEA@IRS.GOV.*

Dated: June 18, 2026.

Elizabeth J. Van Osten,

Designated Federal Officer, Advisory Committee on Actuarial Examinations.

[FR Doc. 2026–12553 Filed 6–22–26; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

[OMB Number 1125–0022]

Agency Information Collection Activities; Proposed Collection eComments Requested; Change of Address/Contact Information Form Title—Change of Address/Contact Information Form

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: In accordance with the Paperwork Reduction of 1995 (''PRA''), the Executive Office for Immigration Review (''EOIR''), Department of Justice (''DOJ''), requested the Office of Management and Budget (''OMB'') conduct an emergency review and approval of a revision to a currently approved collection of information. EOIR requested and OMB granted emergency approval on March 2, 2026, authorizing the revised collection through July 31, 2026. EOIR is seeking PRA authorization for three years. The information collection was previously published in the **Federal Register** on March 5, 2026, allowing a 60-day comment period. This notice responds to several comments received by EOIR during the 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until July 23, 2026.

FOR FURTHER INFORMATION CONTACT: The information collection was previously published in the **Federal Register** on March 5, 2026, allowing a 60-day comment period. This notice responds to several comments received by EOIR during the 60-day comment period. 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

[1] Commissioner Johanson and Commissioner Kearns voted to conduct full reviews of the orders. Chair Karpel voted to conduct expedited reviews of the orders.

contact: Justine Fuga, Associate General Counsel, Office of the General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041, telephone: (703) 305–0265, *eoir.pra.comments@usdoj.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

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 agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Written comments and recommendations for this 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 information collection or the OMB Control Number 1125–0022. This information collection request (''ICR'') may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Justice information collections currently under review by OMB.

II. Overview of This Information Collection

DOJ 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 DOJ notes that ICRs submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* Revision and extension of a previously approved collection.

2. *Title of the Form/Collection:* Change of Address/Contact Information Form.

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* The agency form numbers are EOIR–33/IC and EOIR–33/BIA, and EOIR is the Department component sponsoring the collection.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Affected Public: Individuals and households.

Abstract: Subjects of immigration proceedings before the Immigration Courts and Board of Immigration Appeals (Board) must report in writing any change of address or contact information. *See* 8 U.S.C. 1229(a)(1)(F)(ii); 8 CFR 1003.15(d)(2). To implement and enforce this legal requirement, subjects report such changes using the Form EOIR–33, *Change of Address/Contact Information.* EOIR and the opposing party use the address and contact information reported on the Form EOIR–33 to effectuate service of process in immigration proceedings. *See* 8 CFR 1003.32. Subjects receive, at the address listed on the latest submitted Form EOIR–33, all service copies of immigration case documents in the official EOIR Record of Proceeding (ROP), including case filings, hearing notices, and final orders by immigration judges ordering the subject's removal from the United States.

EOIR proposes to revise the Form EOIR–33 to remove two address form fields collecting '' 'in care of' other person (if any).'' These fields permit the subject to designate, without verification, a third party to receive mail addressed from EOIR to the subject. Such designation presents potentially nefarious third parties with opportunities to: intercept the subject's mail and fail to complete delivery of immigration court records to the subject; and/or acquire the subject's personally identifiable information (PII) contained within the subject's immigration court records. Third parties may use the subject's records and PII for fraudulent and criminal purposes, such as harassment, identity theft, or document forgery. Additionally, the form fields allow certain aliens to obscure their true address from immigration officials (which is expressly contrary to the intent of the form) and to potentially obstruct the adjudicatory process by intentionally avoiding mailed filings, notices, and orders. Immigration proceedings are obstructed and compromised by such conduct, and the subject cannot or does not participate in the proceedings as needed for EOIR to expeditiously resolve the immigration case. Moreover, the information collected by the fields are unnecessary to fulfill the purposes of the Form EOIR–33. All necessary address information is already collected by the form and can be used to successfully fulfill service of process, properly address immigration court records, and enforce final orders of removal. The proposed changes will help address such public harms and reduce the quantity of information that the individual must provide and that the agency must process.

5. *Obligation to Respond:* Mandatory.

6. *Total Estimated Number of Respondents:* It is estimated that an average of 719,634 respondents will complete the form annually.

7. *Estimated Time per Respondent:* The estimated time per respondent is 5 minutes per response.

8. *Frequency:* Once per year.

9. *Total Estimated Annual Time Burden:* EOIR estimates an average of 59,730 hours total annual time burden for form respondents.

Activity	Average number of respondents per fiscal year	Frequency (annually)	Total annual responses	Time per response (hours)	Total annual burden (hours)
Form EOIR–33/BIA	10,782	1/annually	10,782	0.083	895
Form EOIR–33/IC	708,852	1/annually	708,852	0.083	58,835

Activity	Average number of respondents per fiscal year	Frequency (annually)	Total annual responses	Time per response (hours)	Total annual burden (hours)
Total	719,634	1/annually	719,634	0.083	59,730

10. *Total Estimated Annual Other Costs Burden:* The minimum estimated public cost is zero and the maximum estimated public cost is $62,145,241. There are no filing fees, capital, or start-up costs associated with the Form EOIR–33. Respondents may file and serve the form electronically and need not incur printing or postage costs to mail the form. Therefore, the minimum printing and postage cost is zero. Respondents that choose to print and mail the form will incur $0.10 per copy to print and $0.78 postage, resulting in a cost of $0.88 per form. Multiplying the printing and postage costs per form by the 1,240,397 forms received by mail over the past three fiscal years totals $1,091,549 for maximum printing and postage costs. Respondents may incur a cost if they hire an attorney to assist with completing the Form EOIR–33. The Bureau of Labor Statistics most recently reported that the national average hourly wage for lawyers at $84.84 per hour. Therefore, the maximum labor cost is $61,053,692.

III. Public Comments and Responses

The 60-day comment period closed on May 4, 2026. EOIR received five comments during that time. EOIR received a sixth comment on May 5, 2026; although the comment was submitted after the comment period closed, EOIR nonetheless took the comment into consideration. Below, EOIR summarizes the comments and responds to the points raised by the comments.

A. Emergency Clearance

Comment: Several comments asserted that EOIR did not properly follow nor satisfy emergency clearance standards under the PRA and implementing regulations in requesting emergency OMB review and approval of the changes to Form EOIR–33, *Change of Address/Contact Information.* Specifically, commenters asserted that EOIR provided insufficient justification and that the public harm asserted by the agency is unsupported, speculative, or conclusory.

Response: EOIR disagrees with commenters' assertions regarding PRA procedures and EOIR's justifications for emergency PRA clearance.

First, in accordance with 44 U.S.C. 3507(j) and 5 CFR 1320.13, agencies may seek and OMB is authorized to provide emergency PRA processing and approval. EOIR properly followed the emergency PRA clearance procedures and standards prescribed by 44 U.S.C. 3507(j) and 5 CFR 1320.13. According to these standards, OMB determined that EOIR could not reasonably comply with the normal PRA clearance procedures because public harm was reasonably likely to result if normal clearance procedures were followed. The complete ICR for emergency approval, including the full justification for seeking emergency approval, is publicly available at *www.reginfo.gov* and may be located by searching ICR Reference Number 202602–1125–002 or OMB Control Number 1125–0022. OMB's emergency approval is valid through July 31, 2026. EOIR is now completing the normal PRA clearance procedures for regular OMB approval beyond July 31, 2026.

Second, EOIR's justifications for seeking emergency PRA clearance fully satisfy the requisite standards. EOIR's primary mission includes the adjudication of cases involving allegations of immigration-related document fraud in violation of section 274C of the Immigration and Nationality Act (''INA''), 8 U.S.C. 1324c. Additionally, EOIR is required to monitor immigration-related fraud and to coordinate with investigative and law enforcement authorities to identify and respond to reports of immigration-related fraud. 8 CFR 1003.0(f)(2). Thus, EOIR continuously monitors and reviews its procedures and operations to identify and mitigate fraud-related vulnerabilities where possible. Although this is an on-going duty of EOIR's Fraud and Abuse Prevention Program, EOIR is more closely scrutinizing potential fraud-related vulnerabilities in accordance with Presidential and agency-specific priorities. *See* Presidential Memorandum for the Attorney General and the Secretary of Homeland Security on Preventing Abuses of the Legal System and the Federal Court (Mar. 22, 2025), *https://www.govinfo.gov/content/pkg/DCPD-202500387/pdf/DCPD-202500387.pdf;* EOIR Policy Memorandum (''PM'') 25–19 (Amended), *EOIR's Anti-Fraud Program* (Feb. 5, 2025), *https://www.justice.gov/eoir/media/1388586/dl?inline;* EOIR PM 19–07, *Identifying and Reporting Fraud and Abuse* (Dec. 19, 2018), *https://www.justice.gov/eoir/reference-materials/OOD1907/dl;* EOIR PM 19–06, *Internal Reporting of Suspected Ineffective Assistance of Counsel and Professional Misconduct* (Dec. 18, 2018), *https://www.justice.gov/eoir/reference-materials/OOD1906/dl.*

DOJ also receives thousands of reports of immigration-related fraud. Between May and December 2025, EOIR's Fraud and Abuse Prevention Program processed 5,790 complaints of immigration fraud, with an additional 2,308 complaints pending processing in the complaint queue. Additionally, in Fiscal Year 2025, U.S. Attorneys' Offices across the country charged 25,856 defendants under 8 U.S.C. 1325 (penalizing entry or attempted entry into United States by misrepresenting or concealing material facts as well as marriage and immigration-related business fraud). *See* DOJ, *Prosecuting Immigration Crimes Report (PICR)* Fiscal Year 2025, *https://www.justice.gov/usao/resources/PICReport* (combining totals from ''8 U.S.C. 1325MG FY25 Monthly Def Filed'' and ''8 U.S.C. 1325DC FY25 Monthly Defs Filed'' reports).

Taken together, these findings underscore the prevalence with which malicious actors perpetrate immigration-related fraud and the importance of EOIR's efforts to mitigate potential fraud-related vulnerabilities that the agency's forms may possess. As such, EOIR has determined the benefits of revising the Form EOIR–33 to mitigate potential for fraud and abuse outweigh the minimal burdens such revisions may impose on those aliens completing the form.

B. Flexibility

Comment: Several commenters expressed concern that eliminating the ''in care of'' field removes flexibility for aliens to designate a main point of contact or trusted third party to receive mail for more reliable receipt of mail from the agency. Commenters stated that mail service may be unreliable where the alien resides for a variety of reasons: aliens may live in shared

housing occupied by multiple individuals or families; aliens may live in places with cluster mailboxes; aliens may reside in places where their name would not appear on the mailbox; aliens may live in places where mailboxes are frequently vandalized; aliens experiencing housing instability may reside in a shelter or move between multiple houses of friends and relatives while searching for stable housing; and aliens may not receive mail if the postal carrier makes a discretionary decision to not deliver mail.

Response: Section 239(a)(1)(F) of the INA, 8 U.S.C. 1229(a)(1)(F), specifically requires that the alien who is the subject of the EOIR proceedings must provide his or her own address and contact information, not the address or contact information of a main point of contact or third party. Designating a main point of contact or third party to receive and handle the alien's mail creates opportunities for malicious actors to perpetrate fraud and abuse, as mentioned above. *See infra* Section A. Preventing such opportunities for fraud outweighs the concerns raised by commenters about the revisions potentially eliminating flexibility to designate a best contact address. Even with the revisions, subjects of proceedings may avoid having their mail lost or forwarded to the wrong address by promptly submitting the Form EOIR–33 in compliance with 8 U.S.C. 1229(a)(1)(F)(ii) to ensure that EOIR has on file the most current information for contacting the alien about his or her proceedings. The proposed changes promote the alien's direct receipt of mail from the agency at the place that the alien identifies as the best place to contact him or her. The revisions to the Form EOIR–33 do not change the alien's ability to identify his or her own contact information and continue to uphold the purpose of section 239 of the INA, 8 U.S.C. 1229(a)(1)(F). Aliens may continue to rely on the revised Form EOIR–33 to provide their current address and contact information to the agency.

C. Confidentiality

Comment: Several commenters opposed the revisions to the Form EOIR–33, asserting that removing the ''in care of'' field would eliminate aliens' ability to maintain a confidential address, creating safety concerns for victims of abuse, crime, and violence. Commenters stated that third party addresses function as a safety accommodation for asylum seekers, survivors of domestic violence, sexual assault, trafficking, and other forms of exploitation. Commenters suggested revising the form to allow aliens to designate a safe mailing address.

Response: The Form EOIR–33 collects the address ''at which the alien may be *contacted* respecting proceedings.'' INA 239(a)(1)(F), 8 U.S.C. 1229(a)(1)(F)(i) (emphasis added); *accord* 8 CFR 1003.15(d)(1) (''. . . the alien must provide to the Immigration Court . . . a written notice of an address and telephone number at which the alien can be *contacted.*'') (emphasis added); *see also Renaut* v. *Lynch,* 791 F.3d 163, 168–69 (1st Cir. 2015) (''But, as we have explained, it is not at all clear that an alien fails to comply with the address requirement when he changes residence. And in any event, the statute still instructs the government to send notice to the alien's last known address, whatever that address may be.''); *Peralta-Cabrera* v. *Gonzales,* 501 F.3d 837, 844–45 (7th Cir. 2007) (''. . . an alien has a duty to provide the immigration authorities with *an address where he can be contacted* . . . [and] it is the government's responsibility to ensure that mail is properly addressed so that it can be delivered *to the location the alien provided.*'') (emphasis added). Absent the ''in care of'' field, the form remains sufficiently flexible for aliens to notify EOIR of the address at which the alien may be currently contacted regarding their proceedings—whether it be a physical address, mailing address, including a safe mailing address for victims and survivors of abuse or violence, or another address in the United States at which the alien can be reached about their proceedings.[1] The revisions do not prevent aliens from listing a safe mailing address as their contact address to protect their safety and confidentiality.

Additionally, the contact information provided on the Form EOIR–33 is maintained in a Privacy Act system of records and handled in accordance with the confidentiality protections afforded by the Privacy Act, 8 U.S.C. 1367, and 8 CFR 1208.6, where applicable for particularly vulnerable individuals. *See* JUSTICE/EOIR–001, Adjudication and Appeal Records of the Office of the Chief Immigration Judge and Board of Immigration Appeals, 90 FR 42265 (Aug. 29, 2025). EOIR will not divulge information from immigration case records, including the contact information provided on the Form EOIR–33, unless authorized by applicable law and in accordance with routine uses set forth in Privacy Act systems of records notices. EOIR protects the confidentiality of the contents of the Form EOIR–33 to the extent permitted by law.

Comment: One commenter specifically noted that aliens verify the trustworthiness of designated third-party recipients under the ''in care of'' field because respondents must sign the form under penalty of perjury, declaring that the information is true and correct to the best of their knowledge.

Response: The purpose of the Form EOIR–33 is for the alien who is the subject of the EOIR proceedings to provide his or her own address and contact information. The Form EOIR–33 is not meant to be used by the alien to consent to disclosures of his or her information. Rather, individuals that wish to authorize disclosures of their information to trusted third parties must use the Form EOIR–59, Certification and Release of Records (OMB Control No. 1125–0017, exp. 02/28/2027), or an equivalent form of written consent in accordance with 28 CFR. 16.40(f).

D. Due Process

Comment: Commenters stated that they opposed the revisions to the Form EOIR–33 because removing the ''in care of'' field eliminates the mechanism on which aliens have historically relied to receive notice from the government and to effectuate due process. Some commenters requested that EOIR include a separate mailing address to more reliably effectuate service of process. Other commenters suggested revising the form to allow aliens to designate a physical address and a mailing address.

Response: The Form EOIR–33 collects the address ''at which the alien may be *contacted* respecting proceedings.'' INA 239, 8 U.S.C. 1229(a)(1)(F)(i) (emphasis added); *accord* 8 CFR 1003.15(d)(1) (''. . . the alien must provide to the Immigration Court . . . a written notice of an address and telephone number at which the alien can be *contacted.*'') (emphasis added). Absent the ''in care of'' field, the form remains sufficiently flexible for respondents to notify EOIR of the best address at which they may be reached regarding their proceedings so that EOIR and the opposing party may effectuate service of process in accordance with applicable law. Requiring the alien to designate and differentiate several address types would increase the burden on aliens to provide more information than is

[1] The obligation to provide a current contact address remains the same for an Unaccompanied Alien Child (UAC). Individually or through an authorized representative, the UAC must also provide an address at which the UAC may be contacted regarding his or her proceedings, whether that be the parent's or guardian's address, a physical address, a regular or safe mailing address, or some other address in the United States at which the UAC may be reached by EOIR.

necessary for EOIR to contact aliens regarding their proceedings.

E. Cost and Burden Considerations

Comment: One commenter asserted that EOIR underestimated the volume of aliens in EOIR removal proceedings due to increased enforcement efforts.

Response: Because EOIR sought emergency approval, EOIR relied on the cost and burden estimates from the previous PRA clearance process for the Form EOIR–33. The prior estimates relied upon data drawn from EOIR–33 forms received by the agency in Fiscal Years 2022 through 2024. EOIR has recalculated the cost and burden estimates to include recent data from Fiscal Year 2025 to more accurately estimate the volume of aliens in EOIR removal proceedings because of increased enforcement efforts and the impact this may have on the costs and burdens associated with the ICR.

Comment: One commenter asserted that the current address update processes for EOIR and the Department of Homeland Security (''DHS''), U.S. Citizenship and Immigration Service (''USCIS'') are cumbersome and difficult and suggested that consolidating the processes for both agencies would better reduce paperwork because only one address update would be required.

Response: EOIR and USCIS collect address and contact information under separate legal authorities requiring updates according to different deadlines and for distinct purposes. EOIR is authorized to collect address and contact information under section 239 of the INA, 8 U.S.C. 1229(a)(1)(F), for purposes of adjudicating removal proceedings and requires that updates to such information be provided to EOIR within five days of any change of address. 8 CFR l003.15(d)(2). The requirement to update address and contact information with EOIR only applies to individuals in proceedings before the Immigration Courts or the Board of Immigration Appeals. By contrast, section 265 of the INA, 8 U.S.C. 1305 authorizes USCIS to collect address and contact information for purposes of processing immigration applications, petitions, or other benefits requests, and requires updates to such information be provided to USCIS within 10 days of any change of address. 8 CFR 265.1. The requirement to update address and contact information with USCIS applies to all aliens in the United States required to register under section 262 of the INA, 8 U.S.C. 1302. EOIR maintains its own form to comply with the statute specifically governing EOIR's collection of address and contact information and will not be consolidating the Form EOIR–33 with any USCIS form at this time.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Enterprise Portfolio Management, Office of the Chief Information Officer, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC 20530.

Dated: June 18, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–12552 Filed 6–22–26; 8:45 am]

BILLING CODE 4410–30–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–3103]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration (NSHC), notwithstanding the pendency before the Commission of a request for a hearing from any person.

DATES: Comments must be filed by July 23, 2026. A request for a hearing or petitions for leave to intervene must be filed by August 24, 2026. This biweekly notice includes all amendments issued, or proposed to be issued, from May 21, 2026, to June 8, 2026. The last biweekly notice was published on June 9, 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–2026–3103. 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: Susan Lent, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1365; email: *Susan.Lent@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–3103, facility name, unit number(s), docket number(s), application date, and subject 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–2026–3103.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking Website (*https://www.regulations.gov*). Please include Docket ID NRC–2026–3103, facility name, unit number(s), docket number(s), application date, and subject, 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. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

For the facility-specific amendment requests shown in this notice, the Commission finds that the licensees' analyses provided, consistent with section 50.91 of title 10 of *the Code of Federal Regulations* (10 CFR) ''Notice for public comment; State consultation,'' are sufficient to support the proposed determinations that these amendment requests involve NSHC. Under the Commission's regulations in 10 CFR 50.92, operation of the facilities in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on these proposed determinations. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determinations.

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue any of these license amendments before expiration of the 60-day period provided that its final determination is that the amendment involves NSHC. In addition, the Commission may issue any of these amendments prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action on any of these amendments prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final NSHC determination for any of these amendments, any hearing will take place after issuance. The Commission expects that the need to take action on any amendment before 60 days have elapsed will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by any of these actions may file a request for a hearing and petition for leave to intervene (petition) with respect to that 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 60 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).

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration, which will serve to establish when the hearing is held. If the final determination is that the license amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the license amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

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 60 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*).

B. 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 following table provides the plant name, docket number, date of application, ADAMS accession number, and location in the application of the licensees' proposed NSHC determinations. For further details with respect to these license amendment applications, see the applications for amendment, which are available for public inspection in ADAMS. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT REQUESTS

Arizona Public Service Company, et al; Palo Verde Nuclear Generating Station, Units 1, 2, and 3; Maricopa County, AZ

Docket Nos	50–528, 50–529, 50–530.
Application date	March 4, 2026.
ADAMS Accession No	ML26064A216.
Location in Application of NSHC	Pages 12–13 of the Enclosure.
Brief Description of Amendments	The proposed amendments would revise Technical Specification (TS) Section 3.4.16, ''RCS [Reactor Coolant System] Leakage Detection Instrumentation,'' to modify the required actions such that a limited time period is provided to restore RCS leak detection instrumentation, in lieu of plant shutdown, so long as alternative RCS leak detection actions are implemented.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Carey Fleming, Senior Counsel, Pinnacle West Capital Corporation, 500 N. 5th Street, MS 8695, Phoenix, AZ 85004.
NRC Project Manager, Telephone Number	William Orders, 301–415–3329.

Dominion Energy Nuclear Connecticut, Inc.; Millstone Power Station, Unit No. 3; New London County, CT

Docket No	50–423.
Application date	April 16, 2026.
ADAMS Accession No	ML26107A137.
Location in Application of NSHC	Pages 6–8 of Attachment 1.

LICENSE AMENDMENT REQUESTS—Continued

Brief Description of Amendment	The proposed amendment would adopt Technical Specifications (TS) Task Force (TSTF) Traveler TSTF–596, ''Expand the Applicability of the Surveillance Frequency Control Program (SFCP).'' The amendment would revise the TSs related to SFCP to reference additional regulatory mechanisms that may be used to control Surveillance Frequencies. The proposed change would also expand the applicability of the SFCP to include other periodic testing frequencies in the TS. The proposed change revises Surveillance Requirements that reference the Inservice Testing Program to instead reference the SFCP.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	W.S. Blair, Senior Counsel, Dominion Energy Services, Inc., 120 Tredegar St., RS–2, Richmond, VA 23219.
NRC Project Manager, Telephone Number	Theo Edwards, 301–415–1721.

Duke Energy Carolinas, LLC; Catawba Nuclear Station, Units 1 and 2; York County, SC; Duke Energy Carolinas, LLC; McGuire Nuclear Station, Units 1 and 2; Mecklenburg County, NC; Duke Energy Carolinas, LLC; Oconee Nuclear Station, Units 1, 2, and 3; Oconee County, SC; Duke Energy Progress, LLC; Brunswick Steam Electric Plant, Units 1 and 2; Brunswick County, NC; Duke Energy Progress, LLC; H. B. Robinson Steam Electric Plant, Unit No. 2; Darlington County, SC; Duke Energy Progress, LLC; Shearon Harris Nuclear Power Plant, Unit 1; Wake and Chatham Counties, NC

Docket Nos	50–325, 50–324, 50–413, 50–414, 50–400, 50–369, 50–370, 50–269, 50–270, 50–287, 50–261.
Application date	May 7, 2026.
ADAMS Accession No	ML26127A257.
Location in Application of NSHC	Pages 3–5 of the Enclosure.
Brief Description of Amendments	The proposed amendments would revise each unit's technical specifications for the Ventilation Filter Testing Program to permit the use of alternate challenge agents when performing in place testing of engineered safety feature ventilation system high efficiency particulate air filters and charcoal adsorbers. The proposed changes are being requested in accordance with Technical Specification Task Force (TSTF) Traveler TSTF–602, Revision 0, ''Revise the Ventilation Filter Testing Program to Permit Alternate Challenge Agents,'' (ADAMS Accession No. ML24177A043).
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Tracey Mitchell LeRoy, Deputy General Counsel, Duke Energy Corporation, 525 S. Tryon Street, Charlotte, NC 28202.
NRC Project Manager, Telephone Number	John Klos, 301–415–5136.

Pacific Gas and Electric Company; Diablo Canyon Nuclear Power Plant, Units 1 and 2; San Luis Obispo County, CA

Docket Nos	50–275, 50–323.
Application date	April 21, 2026.
ADAMS Accession No	ML26112A030.
Location in Application of NSHC	Pages 14–16 of the Enclosure.
Brief Description of Amendments	The proposed amendments would revise the 10 CFR 50.69, ''Risk-informed categorization and treatment of structures, systems, and components for nuclear power reactors,'' process to incorporate the Electric Power Research Institute report, ''Enhanced Risk-Informed Categorization Methodology for Pressure Boundary Components.''
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jennifer Post, Esq., Pacific Gas and Electric Co., 300 Lakeside Drive, Oakland, CA 94612.
NRC Project Manager, Telephone Number	Samson Lee, 301–415–3168.

STP Nuclear Operating Company; South Texas Project, Units 1 and 2; Matagorda County, TX

Docket Nos	50–498, 50–499.
Application date	May 28, 2026.
ADAMS Accession No	ML26148A419.
Location in Application of NSHC	Pages 4–6 of the Enclosure.
Brief Description of Amendments	The proposed amendments would adopt Technical Specifications (TS) Task Force (TSTF) Traveler TSTF–585, ''Revise LCO [Limiting Condition for Operation] 3.0.3 to Require Managing Risk.'' TSTF–585 revises LCO 3.0.3 to require assessing and managing plant risk whenever LCO 3.0.3 is entered. If the risk assessment determines that continuing plant operation is acceptable and other conditions are satisfied, 24-hours from entry into LCO 3.0.3 is permitted to initiate a shutdown. Otherwise, initiation of the shutdown is required immediately. The proposed amendment would also revise or would add some TS Required Actions to direct other actions instead of entry into LCO 3.0.3.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Rachel L. Jackson, VP General Counsel, STP Nuclear Operating Company, P.O. Box 289, Wadsworth, TX 77483.
NRC Project Manager, Telephone Number	Tony Sierra, 301–287–9531.

Union Electric Company; Callaway Plant, Unit No. 1; Callaway County, MO

Docket No	50–483.
Application date	April 7, 2026.
ADAMS Accession No	ML26097A440, Package.
Location in Application of NSHC	Pages 18–19 of the Enclosure, ML26097A442.
Brief Description of Amendment	The proposed amendment would modify the Technical Specifications (TSs) for Callaway Plant, Unit No. 1, and add a new ''Online Monitoring Program (OLM)'' to Section 5.0, ''Administrative Controls.'' The proposed change adds OLM methodology to be used for NRC-approved Analysis and Measurement (AMS) Topical Report (TR) AMS–TR–0702R2–A, ''OLM Technology to Extend Calibration Intervals of Nuclear Plant Pressure Transmitters.''
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jay E. Silberg, Pillsbury Winthrop Shaw Pittman LLP, 1200 17th St. NW, Washington, DC 20036.
NRC Project Manager, Telephone Number	Thomas Byrd, 301–415–3719.

Virginia Electric and Power Company, Dominion Nuclear Company; North Anna Power Station, Units 1 and 2; Louisa County, VA

Docket Nos	50–338, 50–339.
Application date	May 27, 2026.
ADAMS Accession No	ML26148A340.

LICENSE AMENDMENT REQUESTS—Continued

Location in Application of NSHC	Pages 2–4 of the Enclosure.
Brief Description of Amendments	The proposed amendments would adopt Technical Specification (TS) Task Force (TSTF) Traveler 585 (TSTF–585) ''Revise LCO [Limiting Condition for Operation] to Require Managing Risk.'' TSTF–585 revises LCO 3.0.3 to require assessing and managing plant risk whenever LCO 3.0.3 is entered. If the risk assessment determines that continuing plant operation is acceptable and other conditions are satisfied, 24 hours from entry into LCO 3.0.3 is permitted to initiate a shutdown. Otherwise, initiation of the shutdown is required immediately. The proposed amendments would also revise or add some TS Required Actions to direct a plant shutdown instead of entry into LCO 3.0.3.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	W.S. Blair, Senior Counsel, Dominion Energy Services, Inc., 120 Tredegar St., RS–2, Richmond, VA 23219.
NRC Project Manager, Telephone Number	Robert Kuntz, 301–415–3733.

Vistra Operations Company LLC; Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2; Somervell County, TX

Docket Nos	50–445, 50–446.
Application date	April 9, 2026.
ADAMS Accession No	ML26099A193.
Location in Application of NSHC	Pages 20–22 of the Enclosure.
Brief Description of Amendments	The proposed changes to the Comanche Peak Nuclear Power Plant Emergency Plan would re-align augmented Emergency Response Organization positions, redefine minimum staffing positions in the Emergency Response Facilities (ERFs) to align with new facility activation criteria and remove administrative positions in the ERFs.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Roland Backhaus, Senior Lead Counsel-Nuclear, Vistra Corp., 325 7th Street NW, Suite 520, Washington, DC 20004.
NRC Project Manager, Telephone Number	William Orders, 301–415–3329.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed NSHC determination, and opportunity for a hearing in connection with these actions, were published in the **Federal Register** as indicated in the safety evaluation for each amendment.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated in the safety evaluation for the amendment.

For further details with respect to each action, see the amendment and associated documents such as the Commission's letter and safety evaluation, which may be obtained using the ADAMS accession numbers indicated in the following table. The safety evaluation will provide the ADAMS accession numbers for the application for amendment and the **Federal Register** citation for any environmental assessment. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT ISSUANCES

Arizona Public Service Company, et al; Palo Verde Nuclear Generating Station, Units 1, 2, and 3; Maricopa County, AZ

Docket Nos	50–528, 50–529, 50–530.
Amendment Date	May 28, 2026.
ADAMS Accession No	ML26128A139.
Amendment Nos	228 (Unit 1), 228 (Unit 2), and 228 (Unit 3).
Brief Description of Amendments	The amendments relocated certain unit staff qualification standards from Technical Specification Section 5.3.1 to the existing Operations Quality Assurance Program Document for Palo Verde Nuclear Generating Station, Units 1, 2, and 3.
Public Comments Received as to Proposed NSHC (Yes/No)	No.

Constellation Energy Generation, LLC; Braidwood Station, Units 1 and 2; Will County, IL

Docket Nos	50–456, 50–457.
Amendment Date	May 26, 2026.
ADAMS Accession No	ML26127A473.
Amendment Nos	249 (Unit 1); 248 (Unit 2).
Brief Description of Amendments	The amendments revised Technical Specifications Surveillance Requirement 3.7.9.2 to support an ultimate heat sink (UHS) temperature limit that would reflect the diurnal effect that weather conditions have upon the UHS.
Public Comments Received as to Proposed NSHC (Yes/No)	No.

LICENSE AMENDMENT ISSUANCES—Continued

Duke Energy Carolinas, LLC; Oconee Nuclear Station, Units 1, 2, and 3; Oconee County, SC	
Docket Nos	50–269, 50–270, 50–287.
Amendment Date	June 1, 2026.
ADAMS Accession No	ML26061A139.
Amendment Nos	434 (Unit1), 435 (Unit 2), 436 (Unit 3).
Brief Description of Amendments	The amendments revised Technical Specification 3.4.3 to update the pressure and temperature limit curves for Oconee Nuclear Station, Units 1, 2, and 3. The revised curves are applicable through 72 effective full power years, supporting continued safe operation of the reactor pressure vessels through 80 years of operation in accordance with 10 CFR part 50, appendix G.
Public Comments Received as to Proposed NSHC (Yes/No)	No.
Holtec Big Rock Point, LLC; Big Rock Point Plant; Charlevoix County, Michigan	
Docket No	50–155.
Amendment Date	May 29, 2026.
ADAMS Accession No	ML26152A031.
Amendment No	130.
Brief Description of Amendment	This conforming amendment reflects the transfer of Facility Operating License No. DPR–6, which is the 10 CFR part 50 license for the Big Rock Point Plant, held by Holtec Palisades, LLC to Holtec Big Rock Point, LLC. By letter dated May 27, 2026, the licensee notified the NRC of the May 29, 2026, closing date for the license transfer. Proof of the insurance required by 10 CFR 140.12 and 10 CFR 50.54(w) was received by letters dated May 21, 2026. The safety evaluation supporting the conforming amendment was enclosed with the Order approving the license transfer, which was issued on March 11, 2026.
Public Comments Received as to Proposed NSHC (Yes/No)	No.
NextEra Energy Seabrook, LLC; Seabrook Station, Unit No. 1; Rockingham County, NH	
Docket No	50–443.
Amendment Date	May 29, 2026.
ADAMS Accession No	ML26134A237.
Amendment No	180.
Brief Description of Amendment	The amendment revised the Seabrook Station, Unit No. 1 licensing basis by revising TS Bases 3/4.8.1, ''AC Sources—Operating.'' Specifically, the proposed changes address the applicability of certain TS 3.8.1 ACTIONS during periods when one Unit Auxiliary Transformer or Reserve Auxiliary Transformer is unavailable.
Public Comments Received as to Proposed NSHC (Yes/No)	Yes.
Southern Nuclear Operating Company, Inc.; Joseph M. Farley Nuclear Plant, Units 1 and 2; Houston County, AL	
Docket Nos	50–348, 50–364.
Amendment Date	June 3, 2026.
ADAMS Accession No	ML26140A142.
Amendment Nos	259 (Unit1 1), 256 (Unit 2).
Brief Description of Amendments	The amendments revised diesel generator frequency and voltage ranges tor Technical Specification 3.8.1, ''AC [Alternating Current] Sources—Operating.''
Public Comments Received as to Proposed NSHC (Yes/No)	No.
Vistra Operations Company LLC; Perry Nuclear Power Plant, Unit 1; Lake County, OH	
Docket No	50–440.
Amendment Date	May 29, 2026.
ADAMS Accession No	ML26135A373.
Amendment No	208.
Brief Description of Amendment	The amendment replaces the existing reactor vessel heatup and cooldown rate limits and the pressure and temperature limit curves with references to the Pressure and Temperature Limits Report.
Public Comments Received as to Proposed NSHC (Yes/No)	No.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: June 17, 2026.

For the Nuclear Regulatory Commission.

Hipólito González,

Acting Deputy Director, Division of Licensing Projects I, Office of Nuclear Reactor Regulation.

[FR Doc. 2026–12541 Filed 6–22–26; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees' Retirement System; Normal Cost Percentages

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) is providing notice of revised normal cost percentages for employees covered by the Federal Employees' Retirement System (FERS) Act of 1986.

DATES: The revised normal cost percentages are effective at the beginning of the first pay period commencing on or after October 1, 2026. Agency appeals of the normal cost percentages must be filed no later than December 23, 2026.

ADDRESSES: Send agency appeals of the normal cost percentages and requests for actuarial assumptions and data to the Board of Actuaries, care of Gregory Kissel, Senior Actuary, by email to *actuary@opm.gov.*

FOR FURTHER INFORMATION CONTACT: Kristopher Rogers, (202) 606–0299 or *RetirementPolicy@opm.gov.*

SUPPLEMENTARY INFORMATION: The FERS Act of 1986, Public Law 99–335, created a new retirement system intended to cover most Federal employees hired after 1983. Most Federal employees hired before 1984 are under the older Civil Service Retirement System (CSRS). Section 8423 of title 5, United States Code, as added by the FERS Act of 1986, provides for the payment of the Government's share of the cost of the retirement system under FERS. Employees' contributions are established by law and constitute only a portion of the cost of funding the retirement system; employing agencies are required to pay the remaining costs. The amount of funding required, known as ''normal cost,'' is the entry age normal cost of the provisions of FERS that relate to the Civil Service Retirement and Disability Fund (Fund). The normal cost must be computed by OPM in accordance with generally accepted actuarial practices and standards (using dynamic assumptions). Subpart D of part 841 of title 5, Code of Federal Regulations, regulates how normal costs are determined. The normal cost calculations depend on two categories of actuarial assumptions: economic assumptions and demographic assumptions.

Demographic Assumptions

In its meeting on June 16, 2025, the Board of Actuaries of the Civil Service Retirement System (the Board) recommended revisions to the demographic assumptions used in the actuarial valuations of CSRS and FERS. The demographic assumptions include assumed rates of future mortality, employee withdrawal, retirement, and merit and longevity pay increases. The demographic assumptions are determined separately for each of a number of special groups, in cases where separate experience data is available.

Economic Assumptions

The economic assumptions are described under 5 CFR 841.402. The Board concluded that the long-term economic assumptions should remain unchanged from what was determined at the Board's meeting on April 2, 2020. The long-term economic assumptions continue to be:

1. a rate of investment return of 4.0 percent;
2. assumed inflation rate of 2.40 percent;
3. the assumed rate of FERS annuitant Cost of Living Adjustments remains at 80 percent of the assumed rate of inflation; and
4. the projected rate of General Schedule salary increases remains at 2.65 percent.

The general salary increases are in addition to assumed merit salary increases. These assumptions are intended to reflect the long-term expected future experience of the Systems.

Normal Cost Revision

OPM has adopted the Board's recommended demographic and economic assumptions and is revising the FERS normal cost. OPM has revised the normal cost percentage for each category of employees under section 841.403 of title 5, Code of Federal Regulations.

Within each category of employees there are three subdivisions of FERS that have differing normal costs. The first subdivision is regular FERS, generally covering FERS employees first hired before 2013.

The second subdivision was created by section 5001 of Public Law 112–96, The Middle Class Tax Relief and Jobs Creation Act of 2012 and established provisions for FERS-Revised Annuity Employees (FERS–RAE). The law generally covers employees first hired in 2013 and permanently increased retirement contributions by 2.30 percent of pay.

The third subdivision, established in section 401 of Public Law 113–67, the Bipartisan Budget Act of 2013, created FERS-Further Revised Annuity Employee (FERS–FRAE). FERS–FRAE generally covers employees first hired 2014 and after and requires an increase of 1.30 percent of pay above the retirement contribution percentage set for FERS–RAE.

Separate normal cost percentages apply for employees covered under FERS, FERS–RAE and for employees covered under FERS–FRAE.

The normal cost percentages for each category of employee, including the employee contributions under FERS, FERS–RAE, and FERS–FRAE, are as follows:

NORMAL COST PERCENTAGES FOR FERS, FERS–REVISED ANNUITY EMPLOYEE (RAE), AND FERS–FURTHER REVISED ANNUITY (FRAE) GROUPS

Group	FERS normal cost (percent)	FERS–RAE normal cost (percent)	FERS–FRAE normal cost (percent)
Members	25.5	19.0	19.2
Capitol Police covered under 5 USC 8412(d) and 5 USC 8425(c)	38.9	39.3	39.5
Other Congressional employees	26.3	19.0	19.2
Law enforcement officers, members of the Supreme Court Police, firefighters, nuclear materials couriers, customs and border protection officers, and employees under section 302 of the Central Intelligence Agency Retirement Act of 1964 for certain employees	38.9	39.3	39.5
Air traffic controllers	39.9	40.2	40.5
Military reserve technicians	21.0	21.4	21.7
Employees under section 303 of the Central Intelligence Agency Retirement Act of 1964 for certain employees (when serving abroad)	26.2	26.6	26.8
Other employees of the United States Postal Service	16.5	16.9	17.1
All other regular FERS employees	18.7	19.0	19.2

Under 5 CFR 841.408, these normal cost percentages are effective at the beginning of the first pay period commencing on or after October 1, 2026.

The time limit and address for filing agency appeals under 5 CFR 841.409 through 841.412 are stated in the **DATES** and **ADDRESSES** sections of this notice.

Office of Personnel Management.

Alexys Stanley,

Federal Register Liaison Officer.

[FR Doc. 2026–12583 Filed 6–22–26; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees' Retirement System; Present Value Factors

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) is providing notice of adjusted present value factors applicable to certain retirees under the Federal Employees' Retirement System (FERS): Retirees who elect to provide survivor annuity benefits to a spouse based on post-retirement marriage; retiring employees who elect the alternative form of annuity; or retirees who elect to credit certain service with nonappropriated fund instrumentalities. This notice is necessary to conform the present value factors to changes in the economic and demographic assumptions adopted by the Board of Actuaries of the Civil Service Retirement System.

DATES: The revised present value factors apply to survivor reductions or employee annuities that commence on or after October 1, 2026.

ADDRESSES: Send requests for actuarial assumptions and data to the Board of Actuaries, care of Gregory Kissel, Senior Actuary, by email to *actuary@opm.gov.*

FOR FURTHER INFORMATION CONTACT: Kristopher Rogers, (202) 606–0299 or *RetirementPolicy@opm.gov.*

SUPPLEMENTARY INFORMATION: OPM published the present value factors currently in effect on April 14, 2023, at 88 FR 23109. In this edition of the **Federal Register**, OPM also publishes a notice to revise the normal cost percentage under the Federal Employees' Retirement System (FERS) Act of 1986, Public Law 99–335, based on changed actuarial assumptions adopted by the Board of Actuaries of the Civil Service Retirement System. Under 5 U.S.C. 8461(i), those changes require corresponding changes in the present value factors used to produce actuarially equivalent benefits when required by the FERS Act. The revised factors will become effective on October 1, 2026, to correspond with the changes in FERS normal cost percentages.

Several provisions of FERS require reduction of annuities on an actuarial basis. Under each of these provisions, OPM is required to issue regulations on the method of determining the reduction to ensure that the present value of the reduced annuity plus a lump sum equals, to the extent practicable, the present value of the unreduced benefit. The regulations for each of these benefits provide that OPM will publish a notice in the **Federal Register** whenever it changes the factors used to compute the present values of these benefits. The paragraphs below summarize each scenario where the present value factors are used.

Alternative Form of Annuity

Section 842.706(a) of title 5, Code of Federal Regulations, prescribes the method for computing the reduction in the beginning rate of annuity payable to a retiree who elects an alternative form of annuity under 5 U.S.C. 8420a. That reduction is required to produce an annuity that is the actuarial equivalent of the annuity of a retiree who does not elect an alternative form of annuity. The present value factors listed below are used to compute the annuity reduction under 5 CFR 842.706(a) and will apply to annuities that commence on or after October 1, 2026.

Post-Retirement Marriages Survivor Annuities

Section 842.615 of title 5, Code of Federal Regulations, prescribes the use of these factors for computing the reduction required for certain elections to provide survivor annuity benefits based on a post-retirement marriage or divorce under 5 U.S.C. 8416(b), 8416(c), or 8417(b). Under 5 U.S.C. 8416(b), 8416(c), and 8417(b) Congress enacted provisions that permitted OPM to cease collection of these survivor election deposits by means of either a lump-sum payment or installments. Instead, OPM is required to establish a permanent actuarial reduction in the annuity of the retiree. This means that OPM must take the amount of the deposit computed under the old law and translate it into a lifetime reduction in the retiree's benefit. The new factors will apply to survivor reductions that commence on or after October 1, 2026.

Nonappropriated Fund Instrumentalities Service Credit

Subpart F of 5 CFR part 847, prescribes the use of present value factors for computing the deficiency the retiree must pay to receive credit for certain service with nonappropriated fund instrumentalities made creditable by an election under 5 U.S.C. 8461(n). Subpart I of 5 CFR part 847 prescribes the use of present value factors for employees that elect to credit nonappropriated fund instrumentality service to qualify for immediate retirement under section 1132 of Public Law 107–107 (115 Stat. 1242). The new factors will apply to cases in which the date of computation under 5 CFR 847.603 or 847.809 is on or after October 1, 2026.

OPM is, therefore, revising the tables of present value factors to read as follows:

TABLE I—FERS PRESENT VALUE FACTORS FOR AGES 62 AND OLDER

[Applicable to annuity payable following an election under 5 U.S.C. 8416(b), 8416(c), 8417(b), 8420a, under section 1043 of Public Law 104–106, or under section 1132 of Public Law 107–107.]

Age	Present value factor
62	222.9
63	216.3
64	209.6
65	202.9
66	196.1
67	189.2
68	182.4
69	175.5
70	168.6
71	161.7
72	154.8
73	148.0
74	141.2
75	134.5
76	127.8
77	121.2
78	114.8
79	108.5
80	102.3
81	96.3
82	90.5
83	84.9
84	79.5
85	74.3
86	69.3
87	64.5
88	59.9
89	55.6
90	51.6
91	47.9
92	44.4
93	41.2
94	38.3
95	35.7
96	33.3
97	31.2
98	29.4
99	27.7
100	26.2
101	24.8
102	23.5
103	22.2
104	20.8
105	19.3
106	17.3
107	14.4
108	9.5
109	6.4

TABLE II.A—FERS PRESENT VALUE FACTORS FOR AGES 40 THROUGH 61

[Applicable to annuity payable when annuity is not increased by cost-of-living adjustments before age 62 following an election under 5 U.S.C. 8416(b), 8416(c), 8417(b), 8420a, under section 1043 of Public Law 104–106, or under section 1132 of Public Law 107–107]

Age	Present value factor
40	268.5
41	267.0
42	265.5
43	263.9
44	262.2
45	260.3
46	258.4
47	256.4
48	254.4
49	252.3
50	250.3
51	248.2
52	246.2
53	244.0
54	241.9
55	239.6
56	237.3
57	235.0
58	232.6
59	230.2
60	227.8
61	225.4

TABLE II.B—FERS PRESENT VALUE FACTORS FOR AGES 40 THROUGH 61

[Applicable to annuity payable when annuity is increased by cost-of-living adjustments before age 62 following an election under 5 U.S.C. 8416(b), 8416(c), 8417(b), or 8420a, under section 1043 of Public Law 104–106, or under section 1132 of Public Law 107–107]

Age	Present value factor
40	350.7
41	345.9
42	340.9
43	335.9
44	330.6
45	325.3
46	319.7
47	314.1
48	308.4
49	302.7
50	297.0
51	291.2
52	285.4
53	279.5
54	273.5
55	267.5
56	261.3
57	255.1
58	248.8
59	242.4
60	236.0
61	229.5

TABLE III—FERS PRESENT VALUE FACTORS FOR AGES AT CALCULATION BELOW 40

[Applicable to annuity payable following an election under section 1043 of Public Law 104–106 or under section 1132 of Public Law 107–107]

Age at calculation	Present value of a monthly annuity
17	438.1
18	435.1
19	432.0
20	428.9
21	425.7
22	422.5
23	419.2
24	415.8
25	412.3
26	408.8
27	405.2
28	401.5
29	397.7
30	393.9
31	390.0
32	385.9
33	381.9
34	377.7
35	373.4
36	369.1
37	364.6
38	360.1
39	355.5

Office of Personnel Management.

Alexys Stanley,

Federal Register Liaison Officer.

[FR Doc. 2026–12582 Filed 6–22–26; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Civil Service Retirement System; Present Value Factors

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) is providing notice of adjusted present value factors applicable to certain retirees under the Civil Service Retirement System (CSRS): Retirees who elect to provide survivor annuity benefits to a spouse based on a post-retirement marriage; retiring employees who elect the alternative form of annuity, owe certain redeposits based on refunds of contributions for service ending before March 1, 1991, or elect to credit certain service with nonappropriated fund instrumentalities; or for retirees with certain types of retirement coverage errors who can elect to receive credit for service by taking an actuarial reduction under the provisions of the Federal Erroneous Retirement Coverage Correction Act. This notice is necessary to conform the present value factors to changes in the economic and demographic assumptions adopted by the Board of Actuaries of the Civil Service Retirement System.

DATES: The revised present value factors apply to survivor reductions or employee annuities that commence on or after October 1, 2026.

ADDRESSES: Send requests for actuarial assumptions and data to the Board of Actuaries, care of Gregory Kissel, Senior Actuary, by email to *actuary@opm.gov.*

FOR FURTHER INFORMATION CONTACT: Kristopher Rogers, (202) 606–0299 or *RetirementPolicy@opm.gov.*

SUPPLEMENTARY INFORMATION: The present value factors currently in effect were published by OPM on April 14, 2023, at 88 FR 23111. In this edition of the **Federal Register**, OPM also publishes a notice to revise the normal cost percentage under the Federal Employees' Retirement System (FERS) Act of 1986, Public Law 99–335, based on changed actuarial assumptions adopted by the Board of Actuaries of the CSRS. Those changes require corresponding changes in present value factors used to produce actuarially equivalent benefits when required by the Civil Service Retirement Act.

Several provisions of CSRS require reduction of annuities on an actuarial basis. Under each of these provisions, OPM is required to issue regulations on the method of determining the reduction to ensure that the present value of the reduced annuity plus a lump-sum equals, to the extent practicable, the present value of the unreduced benefit. The regulations for each of these benefits provide that OPM will publish a notice in the **Federal Register** whenever it changes the factors used to compute the present values of these benefits. The paragraphs below summarize each scenario where the present value factors are used.

Alternative Form of Annuity

Section 831.2205(a) of title 5, Code of Federal Regulations, prescribes the method for computing the reduction in the beginning rate of annuity payable to a retiree who elects an alternative form of annuity under 5 U.S.C. 8343a. That reduction is required to produce an annuity that is the actuarial equivalent of the annuity of a retiree who does not elect an alternative form of annuity. The present value factors listed below are used to compute the annuity reduction under 5 CFR 831.2205(a) and will apply to annuities that commence on or after October 1, 2026.

Refunded Service Ending Before March 1, 1991

Section 831.303(c) of title 5, Code of Federal Regulations, prescribes the use of these factors for computing the reduction to complete payment of certain redeposits of refunded deductions based on periods of service that ended before March 1, 1991, under 5 U.S.C. 8334(d)(2). The new factors will apply to annuities that commence on or after October 1, 2026.

Post-Retirement Marriages

Section 831.663 of title 5, Code of Federal Regulations, prescribes the use of similar factors for computing the reduction required for certain elections to provide survivor annuity benefits based on a post-retirement marriage under 5 U.S.C. 8339(j)(3), (j)(5)(C) or (k)(2). Under 5 U.S.C. 8339(j)(3), (j)(5)(C) or (k)(2), Congress enacted provisions permitting OPM to cease collection of these survivor election deposits by means of either a lump-sum payment or installments. Instead, OPM is required to establish a permanent actuarial reduction in the annuity of the retiree. This means that OPM must take the amount of the deposit computed under the old law and translate it into a lifetime reduction in the retiree's benefit. The new factors will apply to survivor reductions that commence on or after October 1, 2026.

Nonappropriated Fund Instrumentalities Service Credit

Subpart F of 5 CFR part 847 prescribes the use of similar factors for computing the deficiency the retiree must pay to receive credit for certain service with nonappropriated fund instrumentalities made creditable by an election under 5 U.S.C. 8347(q). This regulation prescribes the use of present value factors for employees who elect to credit nonappropriated fund instrumentality service to qualify for immediate retirement. The new factors will apply to cases in which the date of computation under 5 CFR 847.603 or 847.809 is on or after October 1, 2026.

Corrections Under the Federal Erroneous Retirement Coverage Corrections Act

Sections 839.1114 through 839.1121 of title 5, Code of Federal Regulations, prescribes the use of these factors for computing the reduction required for certain service credit deposits, Government Thrift Savings Plan contributions, or for previous payment of the FERS Basic Employee Death Benefit in annuities subject to the Federal Erroneous Retirement Coverage Corrections Act (FERCCA) under title II, Public Law 106–265, 114 Stat. 770 (2000). t. Retirees and survivors who owe a larger deposit because of a retirement coverage error can choose to pay the additional deposit amount or their annuity will be actuarially reduced to account for the deposit amount that remains unpaid. Additionally, retirees and survivors of deceased employees who received Government contributions to their Thrift Savings Plan account after being corrected to FERS and who later elect CSRS Offset under FERCCA keep the Government contributions and associated earnings in their Thrift Savings Plan account. Instead of adjusting the Thrift Savings Plan account, FERCCA requires that the CSRS-Offset annuity be actuarially reduced. Also, survivors who received the FERS Basic Employee Death Benefit and elect CSRS Offset under FERCCA do not have to pay back the Basic Employee Death Benefit. Instead, OPM actuarially reduces the survivor annuity payable. These reductions under FERCCA allow the annuity to be actuarially reduced in a way that, on average, allows the Fund to recover the amount of the missing lump sum over the recipient's lifetime. The new factors will apply to annuities that commence on or after October 1, 2026; or, in the case of previous payment of the Basic Employee Death Benefit, the new factors will apply to deaths occurring on or after October 1, 2026.

OPM is revising the tables of present value factors to read as follows:

CSRS Present Value Factors Applicable to Annuity Payable Following an Election Under Section 8339(j) or (k) or Section 8343a of Title 5, United States Code, or Under Section 1043 of Public Law 104–106 or Under Section 1132 of Public Law 107–107 or Under FERCCA or Following a Redeposit Under Section 8334(d)(2) of Title 5, United States Code

Age	Present value factor
40	388.8
41	382.9
42	376.8
43	370.7
44	364.5
45	358.2
46	351.7
47	345.2
48	338.6
49	332.0
50	325.3
51	318.6
52	311.8
53	305.0
54	298.0
55	290.9
56	283.4
57	275.8
58	268.2
59	260.6
60	253.0
61	245.4
62	237.7

CSRS PRESENT VALUE FACTORS APPLICABLE TO ANNUITY PAYABLE FOLLOWING AN ELECTION UNDER SECTION 8339(J) OR (K) OR SECTION 8343A OF TITLE 5, UNITED STATES CODE, OR UNDER SECTION 1043 OF PUBLIC LAW 104–106 OR UNDER SECTION 1132 OF PUBLIC LAW 107–107 OR UNDER FERCCA OR FOLLOWING A REDEPOSIT UNDER SECTION 8334(D)(2) OF TITLE 5, UNITED STATES CODE—Continued

Age	Present value factor
63	230.1
64	222.4
65	214.7
66	207.0
67	199.2
68	191.5
69	183.8
70	176.1
71	168.5
72	161.0
73	153.5
74	146.1
75	138.9
76	131.7
77	124.7
78	117.8
79	111.1
80	104.6
81	98.2
82	92.1
83	86.2
84	80.5
85	75.0
86	69.8
87	64.9
88	60.2
89	55.8
90	51.7
91	47.9
92	44.4
93	41.2
94	38.2
95	35.6
96	33.3
97	31.2
98	29.4
99	27.7
100	26.2
101	24.9
102	23.6
103	22.3
104	20.9
105	19.4
106	17.3
107	14.4
108	9.5
109	6.4

CSRS PRESENT VALUE FACTORS APPLICABLE TO ANNUITY PAYABLE FOLLOWING AN ELECTION UNDER SECTION 1043 OF PUBLIC LAW 104–106 OR UNDER SECTION 1132 OF PUBLIC LAW 107–107 OR UNDER FERCCA (FOR AGES AT CALCULATION BELOW 40)

Age at calculation	Present value of a monthly annuity
17	501.5
18	497.4
19	493.3
20	489.0
21	484.8
22	480.4

CSRS PRESENT VALUE FACTORS APPLICABLE TO ANNUITY PAYABLE FOLLOWING AN ELECTION UNDER SECTION 1043 OF PUBLIC LAW 104–106 OR UNDER SECTION 1132 OF PUBLIC LAW 107–107 OR UNDER FERCCA (FOR AGES AT CALCULATION BELOW 40)—Continued

Age at calculation	Present value of a monthly annuity
23	476.0
24	471.5
25	466.9
26	462.3
27	457.6
28	452.8
29	447.9
30	443.0
31	438.0
32	432.9
33	427.7
34	422.4
35	417.0
36	411.5
37	406.0
38	400.4
39	394.6

Office of Personnel Management.

Alexys Stanley,

Federal Register Liaison Officer.

[FR Doc. 2026–12584 Filed 6–22–26; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; System of Records

AGENCY: Healthcare and Insurance, Office of Personnel Management.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Office of Personnel Management (OPM) proposes to modify and republish in full a system of records previously titled ''OPM/Central-15, Health Claims Data Warehouse Records'' which will be renamed ''OPM/Central-15, Health Benefits Claims and Cost Records.'' The modification is necessary to include Postal Service Health Benefits Program records in the system, to provide notice of additional data fields collected to support the Federal Employees Health Benefits (FEHB) Program, as well as to provide notice of additional routine uses to the system. The system of records contains health benefits service use and cost data about enrollees and their family members, who are or have been covered under the FEHB Program. As in previous notices for this system of records, the term ''service use and cost data'' includes, but is not limited to, medical claims data, pharmacy claims data, encounter data, and provider data. The system of records also includes Medicare service use and cost data about FEHB- covered individuals who are enrolled in Medicare. This notice clarifies that references in the system of records to the ''FEHB Program'' or ''FEHB'' include the Postal Service Health Benefits Program (''PSHB Program'' or ''PSHB'') within the FEHB Program.

DATES: Please submit comments on or before July 23, 2026. This modified system is effective upon publication in the **Federal Register**, with the exception of the routine uses, which become effective July 23, 2026.

ADDRESSES: You may submit written comments through the *Federal Rulemaking Portal* (*https://www.regulations.gov*). Follow the instructions for submitting comments. All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *https://www.regulations.gov* as they are received, without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact Cameron Stokes, Senior Policy Analyst at *Cameron.Stokes@opm.gov* or 202–936–2847.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Office of Personnel Management proposes to modify a system of records that was previously titled ''OPM/Central-15, Health Claims Data Warehouse Records.'' The system of records is renamed ''OPM/Central-15, Health Benefits Claims and Cost Records,'' and is a repository for health benefits service use and cost data about Federal Employees Health Benefits (FEHB) Program enrollees and their family members.

Established in 1960 through the Federal Employees Health Benefits Act of 1959, 5 U.S.C. 8901 *et seq.,* the FEHB Program is the largest employer-based health insurance program in the United States, covering over 8 million individuals. Covered individuals, as defined in 5 CFR 890.101, include employees of the Federal government, annuitants, members of their families, former spouses, and miscellaneous groups, enumerated in 5 U.S.C. 8901; Postal Service employees, Postal Service annuitants, and their family members, pursuant to 39 U.S.C. 1005; tribal employees, pursuant to 25 U.S.C. 1647b; and separated employees and former family members who are eligible for Temporary Continuation of Coverage under 5 U.S.C. 8905a.

Under FEHB law at 5 U.S.C. 8910(a), OPM ''shall make a continuing study of the operation and administration of [the FEHB Program], including surveys and reports on health benefits plans available to employees and on the experience of the plans.'' Pursuant to this statutory authority and relevant contractual provisions, OPM may direct

carriers and their affiliates to disclose service use and cost data. Accordingly, carriers and their affiliates are listed as a source of records.

Section 101 of the Postal Service Reform Act of 2022 (PSRA), Public Law 117–108, added a new section 8903c to Chapter 89 of title 5, United States Code. The statute directs OPM to establish the Postal Service Health Benefits (PSHB) Program within the FEHB Program. Beginning in 2025, Postal Service employees, Postal Service annuitants, and their eligible family members obtain health benefits coverage through PSHB plans. Accordingly, OPM proposes to modify this system of records notice to indicate that references to the ''FEHB Program'' or ''FEHB'' include the ''PSHB Program'' or ''PSHB.''

OPM is a ''health oversight agency'' under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule definition at 45 CFR 164.501. The HIPAA Privacy Rule permits covered entities, including carriers, to disclose protected health information (PHI), including service use and cost data, to health oversight agencies, such as OPM, for ''oversight activities authorized by law.'' [1] Therefore, disclosures are permitted to the system without individual authorization because OPM is acting as a health oversight agency conducting activities authorized by law.

The collection, maintenance, analysis, and disclosure of records described in this notice are conducted solely in furtherance of OPM's statutory responsibilities to administer and oversee the FEHB and PSHB Programs and pursuant to its authority as a health oversight agency under 45 CFR 164.501 and 45 CFR 164.512(d)(1), including activities related to program integrity, payment oversight, fraud, waste, and abuse prevention, quality assessment, and evaluation of health benefits program performance. OPM collects and maintains only those data elements reasonably necessary to carry out its authorized oversight, program administration, payment integrity, and fraud prevention functions.

Given OPM's status as a ''health oversight agency'' under HIPAA, the system of records may also contain service use and cost data about FEHB-covered individuals who are enrolled in Medicare. The Centers for Medicare & Medicaid Services (CMS) or its contractors may provide service use and cost data about FEHB covered individuals who are also enrolled in Medicare. Accordingly, CMS or its contractors are also listed as a source of records.

OPM utilizes service use and cost data from this system of records to evaluate the effectiveness of the FEHB Program by evaluating the cost of care, utilization of services, and quality of care, comparing these across specific population groups, geographic areas, health plans, health care providers, disease conditions, and to conduct statistical analyses of health service use risk and costs for dual FEHB and Medicare enrollees. OPM also utilizes the service use and cost data to detect patterns indicative of fraud, waste, and abuse, including, but not limited to, identifying potential overpayments and improperly disbursed amounts, and may make referrals to OPM's Office of the Inspector General (OIG) or other law enforcement entities when such patterns are detected.

For the ''Categories of Records in the System,'' as before, the term ''service use and cost data'' includes, but is not limited to, medical claims data, pharmacy claims data, encounter data, and provider data. Other updates to the ''Categories of Records in the System'' include changing ''gender'' to ''sex'' to conform with the requirements of E.O. 14168; [2] adding ''National Drug Codes'' and ''J-Codes'' as specific types of prescribed drug codes that may be maintained; indicating that ''provider charges'' may include ''. . .any amounts paid by other payers as applicable, including coordination of benefits information and pharmacy rebate information''; and finally, ''dates of service'' has also been added as a category of records.

In the section ''Record Source Categories,'' OPM has included the Centers for Medicare & Medicaid Services (CMS) or its contractors to indicate the potential collection and maintenance of records about dual FEHB and Medicare enrollees. Also, OPM is clarifying that OPM's OIG remains a source of information for claims information that it maintains in OPM's Central-18 SORN. OPM's OIG was included as a source of records since the establishment of the Central-15 SORN in 2011. Although the updates to Central-15 in 2013 erroneously removed the reference to OPM OIG from the ''Record Source Categories'' section of the **Federal Register** notice, the Supplementary Information of the same notice explained that data would also still be collected from OPM OIG. Therefore, the current modifications to Central-15 include a correction of this error. OPM has also added a category to indicate that it may receive information from Federal agencies, including the Department of the Treasury, that provide data for program integrity, eligibility verification, payment integrity, fraud prevention, or related oversight purposes.

Out of an abundance of caution, and in order to address privacy related concerns with OPM's collection and use of health benefits cost and claims data, OPM will take measures to pseudonymize [3] records in the following manner: The OPM OIG will provide an encrypted copy of the data in its original format that OPM OIG receives from carriers and pharmacy benefit managers, but personally identifiable information (PII) fields for beneficiaries, such as name, SSN, Subscriber ID (this is the same as Member ID for primary insurance holders), and address (except zip code), will be replaced by null values. Date of birth will be reduced to just the year. The only beneficiary-PII field transmitted as-is will be Member ID, which allows records to be distinguished. Upon receipt, OPM technical staff will utilize a salted cryptographic hashing process on Member ID to generate pseudonymous identifiers for use by OPM analysts. Analysts will conduct routine analysis only on this pseudonymized dataset. Access to the actual Member ID will be strictly limited to authorized personnel and only for approved data quality validation purposes, such as validating automated workflows, troubleshooting hash formatting failures, or entity resolution. Similar pseudonymization protections will be utilized with respect to data collected from carriers and any CMS records maintained in the system,

[1] Under 45 CFR 164.512(d)(1), disclosures are permitted for ''oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections. . .or other activities necessary for appropriate oversight of: (i) The health care system; (ii) Government benefit programs for which health information is relevant to beneficiary eligibility; (iii) Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or (iv) Entities subject to civil rights laws for which health information is necessary for determining compliance.''

[2] President Trump, Executive Order 14168, *Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government,* Section 3(c) (January 20, 2025) (''When administering or enforcing sex-based distinctions, every agency and all Federal employees acting in an official capacity on behalf of their agency shall use the term 'sex' and not 'gender' in all applicable Federal policies and documents.'').

[3] As defined by the National Institute of Standards and Technology, pseudonymization is a de-identification technique that replaces an identifier (or identifiers) for a data principal with a pseudonym in order to hide the identity of that data principal. *See* NIST Special Publication 800–188 (Sept. 2023).

and may be used with respect to information obtained from the Department of Treasury and other Federal agencies, as appropriate.

In sum, Central-15 consists of a restricted-access operational environment that may contain identifiable records for ingestion, validation, linkage, and quality assurance purposes, and a separate analytical environment in which records are pseudonymized for routine analytical use. Pseudonymization is employed as a privacy-enhancing safeguard; however, records remain subject to the Privacy Act because OPM retains the ability to re-identify records for authorized operational purposes. OPM will apply pseudonymization wherever practicable, and routine disclosures ordinarily will be made using pseudonymized records unless identifiable information is reasonably necessary to accomplish an authorized purpose.

The previous routine use that permitted the sharing of de-identified FEHBP data with analysts inside and outside the Federal Government to conduct data analysis has been eliminated as no longer needed. Instead, routine uses (a)–(h) have been added to reflect the basic routine uses that are listed in OPM's Prefatory Statement and most of its other internal, governmentwide, and central systems of records notices. OPM has determined that these routine uses address disclosures that are compatible with the purpose for which the records were collected, and are therefore appropriate to add to this system of records. Upon comprehensive review of this system of records since its establishment, the agency's privacy office determined that it was appropriate to add these routine uses to Central-15 so that there is a consistent approach to disclosures from SORNs within the agency for compelling and necessary uses.

Routine use (i) is a new routine use that permits OPM to share information with a Federal agency or contractor, to enable the administration of a Federal health benefits program, or to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds.

Routine use (j) has been added to permit OPM to share information from this system of records when reasonably necessary to its efforts to eliminate fraud, waste, and abuse in the FEHB Program.[4] As a corollary to routine use (j), routine use (k) has also been added to enable disclosures to another Federal agency or Federal entity when OPM determines that the information is reasonably necessary to its efforts to identify and eliminate fraud, waste, and abuse in programs under its purview. Finally, routine use (l) is a new routine use prescribed by OMB pursuant to Memorandum M–25–32 which implements E.O. 14249, *Protecting America's Bank Account Against Fraud, Waste, and Abuse* (March 25, 2025). Routine use (l) has been added to permit disclosures to the U.S. Department of the Treasury when reasonably necessary to support payment integrity, fraud prevention, and improper payment recovery activities conducted through the Do Not Pay Working System, which are compatible with the purposes for which these records are collected and maintained, including OPM's administration and oversight of the FEHB and PSHB Programs.

This modified system of records replaces the previous OPM/Central-15 SORN that was established to support the Health Claim Data Warehouse. Health benefits service use and cost data records will now be maintained through this modified system of records known as OPM/Central-15, Health Benefits Claims and Cost Records. This modified system of records will be included in OPM's inventory of records systems. In accordance with 5 U.S.C. 552a(r), OPM has provided a report of modifications to this system of records to Congress and to the Office of Management and Budget.

Office of Personnel Management.

Alexys Stanley,

Federal Register Liaison Officer.

SYSTEM NAME AND NUMBER:

Health Benefits Claims and Cost Records, OPM/Central-15.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Healthcare and Insurance, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415.

SYSTEM MANAGER(S):

Associate Director, Healthcare and Insurance, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Generally, OPM has authority for maintenance of the system under 5 U.S.C. 8901 *et seq.* and more specifically at 5 U.S.C. 8910. OPM also has authority through its role as a health oversight agency under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule at 45 CFR 164.501 and 164.512(d)(1). Finally, the Payment Integrity Information Act of 2019 (PIIA), 31 U.S.C. 3351–3358 provides legal authority for agency overpayment detection, payment recovery, fraud analytics, and Treasury Do Not Pay activities.

PURPOSE(S) OF THE SYSTEM:

The primary purpose of this system of records is to collect health benefits service use and cost data, which allows OPM, in its role as program administrator and a health oversight agency, to carry out its administrative and oversight activities to ensure program integrity and fiscal responsibilities of the FEHB Program. OPM receives and uses health benefits service use and cost data pursuant to its authority as a health oversight agency under 45 CFR 164.501 and 45 CFR 164.512(d)(1), and uses such information solely for authorized oversight, program administration, payment integrity, fraud prevention, and related activities authorized by law. In addition, OPM uses this system of records to evaluate the cost of care; utilization of services across geographic areas, health plans, health care providers, and health conditions. OPM also uses this system of records to conduct statistical analyses of health benefits service use and cost for FEHB enrollees. Information contained in the system of records assists OPM in conducting robust contract negotiations, health plan accountability, performance management, and program evaluation, as well as detecting overpayments, fraud, waste, and abuse. OPM will report or refer evidence of waste, fraud, and abuse to appropriate law enforcement agencies for handling. OPM uses identifiable data to create person-level longitudinal records. Access to Personally Identifiable Information (PII) is restricted to OPM personnel needed to create person-level longitudinal records and to select OPM analysts using the data for the analytical purposes described in this notice.

All references to the ''FEHB Program'' or ''FEHB'' in this system of records also encompass the Postal Service Health Benefits Program (''PSHB Program'' or ''PSHB'') within the FEHB Program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on enrollees and their family members, who are or have been covered under the FEHB Program. As defined in 5 CFR

[4] Cf. President Trump, Executive Order 14243, *Stopping Waste, Fraud, and Abuse by Eliminating Information Silos,* Section 3 (March 20, 2025).

890.101, FEHB Program covered individuals include employees of the Federal government, annuitants, members of their families, former spouses, and miscellaneous groups enumerated in 5 U.S.C. 8901; Postal Service employees, Postal Service annuitants, and their family members, pursuant to 39 U.S.C. 1005; tribal employees, pursuant to 25 U.S.C. 1647b; and separated employees and former family members who are eligible for Temporary Continuation of Coverage under 5 U.S.C. 8905a. The system also covers health care providers that are independent contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

a. Unique member identifier, such as pseudonymized Member ID, or other unique identifier;
b. Health Insurance Claim Number;
c. Year of birth;
d. Sex;
e. Home or mailing zipcode;
f. Name of health care provider;
g. Health care provider address;
h. Health care provider taxpayer identification number (TIN), National Provider Identifier (NPI), or other identifier that a Carrier uses for a provider;
i. Health care benefit coverage, including secondary payer information;
j. Medical coding data related to health procedures and diagnoses, in the form of International Statistical Classification of Diseases and Related Health Problems (ICD), Current Procedural Terminology (CPT), National Drug Codes (NDC), J-codes, and other appropriate codes;
k. Provider charges, amounts paid by the plan, amounts paid by the enrollee and any amounts paid by other payers as applicable, including coordination of benefits information and pharmacy rebate information, for benefits coverage, procedures, diagnoses, and treatments.
l. Dates of service.
m. Information relating to an individual's or provider's sanctions, disciplinary actions, debarments, suspensions, disqualifications, licensure status, death, or other information reasonably necessary to support program or payment integrity, fraud prevention, or eligibility determinations.

RECORD SOURCE CATEGORIES:

OPM obtains information from carriers and their affiliates to manage the FEHB Program as well as from OPM's Office of the Inspector General (OIG), which maintains FEHB Program records in a separate system of records (OPM/Central-18) under its own authorities. OPM obtains records from OPM's OIG pursuant to a data sharing agreement. OPM may also obtain records about dual FEHB and Medicare enrollees from the Centers for Medicare & Medicaid Services or its contractors. OPM may also receive information from Federal agencies, including the Department of the Treasury, that provide data for program integrity, eligibility verification, payment integrity, fraud prevention, or related oversight purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside OPM as a routine use pursuant to 5 U.S.C. 552a(b)(3),[5] as follows:

a. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when OPM or another agency representing OPM determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant and necessary to the proceeding.

b. To the Department of Justice when (a) OPM, or any component thereof; (b) any OPM employee in their official capacity; (c) any OPM employee in their individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States, where OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by OPM to be relevant and necessary to the litigation.

c. Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

d. To a member of Congress from the record of an individual in response to an inquiry made on behalf of, and at the request of, the individual to whom the record pertains.

e. To the National Archives and Records Administration (NARA) for records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

f. To appropriate agencies, entities, and persons when (1) OPM suspects or has confirmed that there has been a breach of the system of records; (2) OPM has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, OPM (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OPM's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

g. To another Federal agency or Federal entity, when OPM 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.

h. To OPM contractors when OPM determines that it is necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to OPM employees.

i. To another Federal agency, or its contractor, to enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds.

j. To appropriate agencies, entities, and persons when (1) OPM suspects or has confirmed that fraud, waste, or abuse is occurring with respect to services rendered or payments made in connection with the FEHB Program; and (2) the disclosure made to such agencies, entities, and persons is

[5] Any records containing Medicare service use and cost data, where the Centers for Medicare & Medicaid Services (CMS) is the source, will be disclosed only after prior written approval from CMS.

relevant and necessary to assist with OPM's efforts to identify or eliminate such occurrences. Disclosures shall be limited to information reasonably necessary to support identification, prevention, investigation, recovery, or remediation activities.

k. To another Federal agency or Federal entity, when (1) OPM determines that the information is relevant and necessary to assist the recipient agency or entity in its efforts to address suspected or confirmed fraud, waste, and abuse occurring in a program under the recipient agency's or entity's purview, provided that any disclosure is limited to the information reasonably necessary to accomplish such purposes.

l. 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.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The records in this system of records are stored electronically. If any paper records are received, then they are imaged, stored electronically, and securely shredded. Access to the electronic systems is restricted to authorized users with appropriate security or suitability clearances, and a need to access the information in the performance of their official duties.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved primarily by pseudonymized Member ID. Authorized personnel may retrieve records using Member ID or other identifiers in restricted-access operational environments when necessary for approved linkage, validation, or data quality activities.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained pursuant to NARA Records Schedule Number DAA–0478–2017–0006.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in this system are protected from unauthorized access and misuse through layered administrative, technical, and physical security measures. OPM security measures are in compliance with the Federal Information Security Modernization Act of 2014, associated OMB policies, and applicable standards and guidance from the National Institute of Standards and Technology (NIST). Access to such information is limited to OPM employees, contractors, and other personnel who have an official need for access in order to perform their duties. Records are maintained in an access-controlled area, with direct access permitted to only authorized personnel. Electronic records are accessed only by authorized personnel with accounts on OPM's network. Additionally, direct access to certain information may be restricted depending on a user's role and responsibility within the organization and system. Paper records are safeguarded in accordance with appropriate laws, rules, and policies. Direct identifiers and pseudonymization keys are maintained in segregated, access-restricted environments and are available only to personnel with an authorized operational need.

RECORD ACCESS PROCEDURES:

Individuals seeking notification of and access to their records in this system of records may do so by submitting a request in writing to the Office of Personnel Management, Office of the General Counsel—FOIA, 1900 E Street NW, Washington, DC 20415–7900 or by emailing *foia@opm.gov;* ATTN: Healthcare and Insurance. Individuals must furnish the following information for their records to be located:

1. Full name, including any former name.
2. Year of birth.
4. Name and address of employing agency or retirement system.
5. Reasonable specification of the requested information.
6. The address to which the information should be sent.
7. Signature.

OPM may use information supplied by the requester to identify corresponding pseudonymized records maintained in the system. Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297). Enrollees who request access to their records will have access only to their own information and not to that of covered family members. Similarly, family members who request access to their records may have access only to their own information and not to that of the enrollee or other covered family members.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records in this system of records may do so by writing to the to the Office of Personnel Management, Office of the General Counsel—FOIA, 1900 E Street NW, Washington, DC 20415–7900 or by emailing *foia@opm.gov;* ATTN: Healthcare and Insurance. Requests for amendment of records should include the words ''PRIVACY ACT AMENDMENT REQUEST'' in capital letters at the top of the request letter; if emailed, please include those words in the subject line. Individuals must furnish the following information for their records to be located:

1. Full name, including any former name, and address.
2. Year of birth.
4. Name and address of employing agency or retirement system.
5. Precise identification of the information to be amended.
6. Signature.

OPM may use information supplied by the requester to identify corresponding pseudonymized records maintained in the system. Individuals requesting amendment of their records must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297). OPM may refer amendment requests to other entities when those entities are the original source of the record.

NOTIFICATION PROCEDURES:

See ''Record Access Procedures.''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

OPM/Central-15, ''Health Claims Data Warehouse Records,'' 76 FR 35050 (June 15, 2011), 78 FR 23313 (April 18, 2013), 80 FR 74815 (November 30, 2015), 87 FR 5874 (February 2, 2022).

[FR Doc. 2026–12596 Filed 6–22–26; 8:45 am]

BILLING CODE 6325–64–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36214; 812–16025]

The RBB Fund Trust and Seven Post Investment Office LP

June 18, 2026.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of

1940 (''Act'') for an exemption from section 15(a) of the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements'').

Summary of Application: The requested exemption would permit Applicants to enter into and materially amend subadvisory agreements with subadvisers without shareholder approval and would grant relief from the Disclosure Requirements as they relate to fees paid to the subadvisers.

Applicants: The RBB Fund Trust and Seven Post Investment Office LP.

Filing Date: The application was filed on May 8, 2026.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern time on July 13, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Jillian L. Bosmann, Esq., Faegre Drinker Biddle & Reath LLP, *jillian.bosmann@faegredrinker.com,* with a copy to Ali Bastani, Seven Post Investment Office LP, *ops@sevenpost.com.*

FOR FURTHER INFORMATION CONTACT: Rachel Loko, Senior Special Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, dated May 8, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/search-filings.* You may also call the SEC's Office of Investor Education and Assistance at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–12607 Filed 6–22–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105718; File No. SR–NASDAQ–2026–055]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Eliminate Obsolete References to the Discontinued QIX Proprietary Protocol From The Exchange's Rulebook

June 17, 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 June 10, 2026, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, 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 eliminate obsolete references to the discontinued QIX proprietary protocol from the Exchange's rulebook.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings,* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to eliminate obsolete references to the discontinued QIX proprietary protocol from the Exchange's rulebook.

QIX was a proprietary protocol offered by Nasdaq. On October 26, 2021, the Exchange announced via Equity Trader Alert #2021–82 that, as of that date, the Exchange would no longer accept requests for new or additional QIX ports.[3] On July 27, 2022, the Exchange announced via Equity Trader Alert #2022–67 that it would shut down all remaining QIX ports at the close of business on October 28, 2022.[4] As far as the Exchange is able to determine, the Exchange did not submit a rule filing with the Commission prior to discontinuing the QIX protocol.

References to QIX are contained in Equity 4 and Equity 7.[5] In particular, there are multiple references to QIX in the following rules:

- Equity 4, Rule 4702, which concerns the different order types offered by the Exchange.
- Equity 4, Rule 4703, which concerns the different order attributes that may be assigned to the different order types offered by the Exchange.
- Equity 7, Section 115, which details fees for the different ports and services offered by the Exchange. Currently, Section 115(a) states that there is ''No charge'' in connection with either a QIX trading port (plus optional proprietary quote information port) or a QIX disaster recovery port. Thus, this filing is not modifying a fee, but instead it is removing from Equity 7 the reference to this ''No charge'' fee for QIX. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See https://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2021-82.*

[4] *See https://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2022-67.*

[5] Besides the rules listed below, there are also references to QIX in Equity 4, Rule 4770, which is the rule concerning the since-concluded Tick Size Pilot. The Exchange is not removing these references to QIX in Rule 4770 because Rule 4770, in its entirety, is now obsolete, and the Exchange is removing that entire rule in a separate filing.

Exchange proposes to reserve Equity 7, Section 115(a).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The proposed rule change is designed to promote just and equitable principles of trade because eliminating obsolete references to QIX in Equity 4 and Equity 7 will serve to avoid confusion and provide clarity to market participants. Additionally, it is necessary and consistent with the public interest and the protection of investors to make these technical corrections to the Exchange's rulebook at Equity 4 and Equity 7 in order to avoid confusing the investing public with obsolete references to QIX.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issue; instead, its purpose is to ensure that the Exchange's rulebook accurately reflects the protocols that are available to communicate to the Exchange. Furthermore, the Exchange notes that it continues to offer its customers several other protocols to communicate with the Exchange, so customers are able to choose the protocols that best fit their trading strategies.[8]

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.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] The Exchange continues to offer the OUCH, RASH, FLITE, and FIX protocols. *See* Equity 4, Rule 4702(a). Additionally, the Exchange is preparing to deploy a new protocol, CORE FIX, before the end of 2026. *See* Securities Exchange Act Release No. 105129 (Mar. 31, 2026), 91 FR 17010 (Apr. 3, 2026) (File No. SR–NASDAQ–2026–023) (''Notice of Filing and Immediate Effectiveness of a Proposal To Amend the Exchange's Anti-Internalization Functionality in Equity 4, Rule 4757, and To Extend the Implementation Date of the CORE FIX Order Entry Protocol'').

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 Act[9] and subparagraph (f)(6) of Rule 19b-4 thereunder.[10]

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–2026–055 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–2026–055. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NASDAQ–2026–055 and should be submitted on or before July 14, 2026

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–12529 Filed 6–22–26; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 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.

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0553]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension: Rule 19b-7 and Form 19b-7

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 19b–7 (17 CFR 240.19b–7) and Form 19b–7, under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

The Exchange Act provides a framework for self-regulation under which various entities involved in the securities business, including national securities exchanges and national securities associations (collectively, self-regulatory organizations or ''SROs''), have primary responsibility for regulating their members or participants. The role of the Commission in this framework is primarily one of oversight; the Exchange Act charges the Commission with supervising the SROs and assuring that each complies with and advances the policies of the Exchange Act.

The Exchange Act was amended by the Commodity Futures Modernization Act of 2000 (''CFMA''). Prior to the CFMA, federal law did not allow the trading of futures on individual stocks or on narrow-based stock indexes (collectively, ''security futures products''). The CFMA removed this restriction and provided that trading in security futures products would be regulated jointly by the Commission and the Commodity Futures Trading Commission (''CFTC'').

The Exchange Act requires all SROs to submit to the SEC any proposals to amend, add, or delete any of their rules. Certain entities (Security Futures Product Exchanges) would be notice-registered national securities exchanges only because they trade security futures products. Similarly, certain entities (Limited Purpose National Securities Associations) would be limited-purpose national securities associations only because their members trade security futures products. The Exchange Act, as amended by the CFMA, established a procedure for Security Futures Product Exchanges and Limited Purpose National Securities Associations to provide notice of proposed rule changes relating to certain matters.[1] Rule 19b–7 and Form 19b–7 implemented this procedure. Effective April 28, 2008, the SEC amended Rule 19b–7 and Form 19b–7 to require that Form 19b–7 be submitted electronically.[2]

The collection of information is designed to provide the Commission with the information necessary to determine, as required by the Exchange Act, whether the proposed rule change is consistent with the Exchange Act and the rules thereunder. The information is used to determine if the proposed rule change should remain in effect or be abrogated.

The respondents to the collection of information are SROs.[3] The estimated total industry burden per year for rule changes, updating and posting rule changes and updating the online rulebook is 102 burden hours.[4] In the proposed extension, there is no change to the burden hour estimate per respondent. However, there is an increase in the total burden hours because the Commission now estimates that there are three respondents instead of two respondents in 2023 (an increase of on respondent). Thus, the net change in estimated total aggregate burden hours increased from 68 to 102 (increase of 34 burden hours).

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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.

Please direct your written comments to: Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg via email to *PaperworkReductionAct@sec.gov* by August 24, 2026.

Dated: June 18, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–12586 Filed 6–22–26; 8:45 am]

BILLING CODE 8011–01–P

[1] These matters are higher margin levels, fraud or manipulation, recordkeeping, reporting, listing standards, or decimal pricing for security futures products; sales practices for security futures products for persons who effect transactions in security futures products; or rules effectuating the obligation of Security Futures Product Exchanges and Limited Purpose National Securities Associations to enforce the securities laws. *See* 15 U.S.C. 78s(b)(7)(A).

[2] *See* Securities Exchange Act Release No. 57526 (March 19, 2008), 73 FR 16179 (March 27, 2008).

[3] There are currently two Security Futures Product Exchanges and one Limited Purpose National Securities Association, the National Futures Association. Therefore, there are currently three respondents to Form 19b–7.

[4] This estimate is the sum of the total industry (3 respondents) burden hours for rule filings (75 hours), updating and posting rule changes (3 hours) and updating rules (24 hours).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105736]

Order Granting Conditional Exemptive Relief, Pursuant to Sections 17A and 36(a) of the Securities Exchange Act of 1934, From the Definition of an ''Eligible Secondary Market Transaction'' in Rule 17ad–22(a)

June 18, 2026

I. Introduction

On December 13, 2023, the Securities and Exchange Commission (''Commission'' or ''SEC'') adopted, among other things, amendments to Rule 17ad–22(a) and (e)(18)(iv)(A) and (B) under the Securities Exchange Act of 1934 (''Exchange Act'').[1] Under these amendments, covered clearing agencies that provide central counterparty services for U.S. Treasury securities (''U.S. Treasury securities CCAs'') must establish, implement, maintain, and enforce written policies and procedures reasonably designed to establish objective, risk-based, and publicly disclosed criteria for participation which require that any direct participant of a U.S. Treasury securities CCA submit for clearance and settlement all of the eligible secondary market transactions to which such direct participant is a counterparty, and identify and monitor the U.S. Treasury securities CCA's direct participants' submission of transactions for clearing as required under the amendments (together, the ''Trade Submission Requirement'').[2] The amendments defined what constitutes an ''eligible secondary market transaction'' to include, among other things, a secondary market transaction in U.S. Treasury securities of a type accepted for clearing by a registered covered clearing agency that is a repurchase or reverse repurchase agreement collateralized by U.S. Treasury securities, in which one of the counterparties is a direct participant of a covered clearing agency.[3]

The amendments also included an exclusion from the definition of an eligible secondary market transaction for any repurchase or reverse repurchase agreement collateralized by U.S. Treasury securities entered into between a direct participant and an affiliated counterparty (the ''Inter-Affiliate Exclusion''), provided that the affiliated counterparty submit for clearance and settlement all other repurchase or reverse repurchase agreements collateralized by U.S. Treasury securities to which the affiliate is a party (the ''outward facing condition'').[4] The amendments define ''affiliated counterparty'' as any counterparty which meets the following criteria: (i) the counterparty is either a bank (as defined in 15 U.S.C. 78c(6)), broker (as defined in 15 U.S.C. 78c(4)), dealer (as defined in 15 U.S.C. 78c(5)), or futures commission merchant (as defined in 7 U.S.C. 1a(28)), or any entity regulated as

[1] Standards for Covered Clearing Agencies for U.S. Treasury Securities and Application of the Broker-Dealer Customer Protection Rule With Respect to U.S. Treasury Securities, Release No. 34–99149 (Dec. 13, 2023), 89 FR 2714, 2737 (Jan. 16, 2024) (''Adopting Release'').

[2] 17 CFR 240.17ad–22(e)(18)(iv)(A) and (B).

[3] 17 CFR 240.17ad–22(a).

[4] *Id.*

a bank, broker, dealer, or futures commission merchant in its home jurisdiction (the ''bank/BD/FCM condition''); (ii) the counterparty holds, directly or indirectly, a majority ownership interest in the direct participant, or the direct participant, directly or indirectly, holds a majority ownership interest in the counterparty, or a third party, directly or indirectly, holds a majority ownership interest in both the direct participant and the counterparty (the ''majority ownership condition''); and (iii) the counterparty, direct participant, or third party referenced in paragraph (ii) of this definition as holding the majority ownership interest would be required to report its financial statements on a consolidated basis under U.S. Generally Accepted Accounting Principles or International Financial Reporting Standards, and such consolidated financial statements include the financial results of the majority-owned party or of both majority-owned parties (the ''accounting consolidation condition'').[5]

II. Discussion and Exemptive Relief

On July 10, 2025, a trade association representing the global alternative asset management industry submitted a letter to the Commission seeking exemptive relief from the bank/BD/FCM condition of the Inter-Affiliate Exclusion to the Trade Submission Requirement for certain inter-affiliate repurchase and reverse repurchase (''repo'') transactions.[6] On May 20, 2026, two additional trade associations submitted a joint letter to the Commission seeking the same exemptive relief.[7]

Specifically, the associations stated that inter-affiliate repo transactions are an ''essential venue'' for Private Funds to access central clearing.[8] The associations identified an approach by which certain Private Funds have sought access to central clearing by entering into a bilateral repo transaction with a subsidiary that is a direct participant of a U.S. Treasury securities CCA as a broker-dealer or futures commission merchant (the ''Captive Clearing Sub'') that then enters into a repo transaction with a third party.[9] The associations stated that, notably, the Captive Clearing Sub is a subsidiary of the Private Fund and that this structure is necessary for Private Funds to access central clearing without relying on an unaffiliated third-party direct participant to submit repo transactions on behalf of the Private Funds.[10] The associations also stated that this structure provides the Private Funds and the overall market with certain benefits, such as increased clearing capacity by enabling customers access to a U.S. Treasury securities CCA without going through an unaffiliated third-party direct participant of a covered clearing agency.[11] In addition, the associations stated that this structure would promote netting efficiency by enabling affiliated funds to net down within the affiliated group the number of repo transactions needed to be executed with third parties, which in turn could increase overall clearing capacity in the system.[12]

The associations stated, however, that the bank/BD/FCM condition eliminates the practical availability of the Inter-Affiliate Exclusion for Private Funds, which cannot otherwise directly access FICC on a cost-effective basis without relying on the Inter-Affiliate Exclusion to transact with their Captive Clearing Sub.[13] The associations stated that because the requested relief would leave intact all other required conditions to the Inter-Affiliate Exclusion, including but not limited to the outward-facing condition, the requested relief would be consistent with the Commission's rationale for the Inter-Affiliate Exclusion: ''Th[e] [inter-affiliate] exclusion is appropriate to ensure that affiliated groups can continue to use inter-affiliate repo transactions to transfer liquidity or risk, while also conditioning that ability on the affiliated counterparty's submission of its eligible secondary market repo transactions for clearance and settlement.'' [14]

After considering these requests, the Commission is providing an exemption, pursuant to Sections 36(a) and 17A(b)(1) of the Exchange Act, from the definition of an eligible secondary market transaction in Rule 17ad–22(a). Specifically, this exemption would exclude, from the definition of eligible secondary market transaction, repo transactions between a Private Fund and its Captive Clearing Sub that is a direct participant, provided that the following conditions are met:

(1) the Captive Clearing Sub is directly or indirectly wholly owned by one or more Private Funds;

(2) to the extent that the Captive Clearing Sub is owned by more than one Private Fund, those Private Funds are managed by a common investment adviser or affiliated group of investment advisers; and

(3) the Private Funds and the Captive Clearing Sub satisfy the other applicable conditions to the Inter-Affiliate Exclusion, *i.e.,* the majority ownership

[5] *Id.*

[6] *See* Letter from Jennifer W. Han, Chief Legal Officer and Head of Global Regulatory Affairs, Managed Funds Association (''MFA''), dated July 10, 2025 (''MFA Letter''), *available at https://www.mfaalts.org/wp-content/uploads/2024/12/MFA-Treasury-Clearing-Mandate-Exemption-Request-inter-affiliate-exception-As-submitted-12.18.24.pdf.*

[7] *See* Letter from William C. Thum, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, Asset Management Group (''SIFMA AMG''), and Robert Toomey, Managing Director and Head of Capital Markets, Securities Industry and Financial Markets Association (''SIFMA''), dated May 20, 2026 (''SIFMA AMG Letter''). The two trade associations state that this request is distinct from the associations' separate comment letter submitted to the Commission regarding exemptive relief for non-U.S. persons from the Trade Submission Requirement, which did not address relief from Private Funds utilizing Captive Clearing Structures. *See* Letter from Robert Toomey, Head of Capital Markets, Managing Director/Association General Counsel, SIFMA dated April 10, 2026, *available at https://www.sifma.org/wp-content/uploads/2026/04/SIFMA-Section-36-Exemptive-Relief-Request-for-Interaffiliate-Transactions.pdf.*

[8] *See* MFA Letter, *supra* note 6, at 3. *See also* SIFMA AMG Letter, *supra* note 7, at 3 (stating that the ''Captive Clearing Subsidiary acts as a conduit providing the fund with the economic and operational benefits of central clearing (including access to the Treasury CCA's netting, margining, and default management infrastructure)''). The associations used the term Private Fund to mean an issuer that would be an investment company, as defined in the Investment Company Act of 1940, but for section 3(c)(1) or 3(c)(7) of that Act. *See* MFA Letter, at 1 n.3 *and* SIFMA AMG Letter, at 1 n.3. For purposes of this exemption, the Commission is using this same definition of ''Private Fund.''

[9] *See* MFA Letter, *supra* note 6, at 3; SIFMA AMG Letter, *supra* note 7, at 3. MFA expressly referred only to the Fixed Income Clearing Corporation (''FICC''), which, at the time of the MFA Letter, was the only covered clearing agency serving the U.S. Treasury market. Since that time, however, the Commission has approved applications from CME Securities Clearing, Inc. and ICE Clear Credit to serve as such covered clearing agencies. CME Securities Clearing, Inc.; Order Granting an Application for Registration as a Clearing Agency under Section 17A of the Securities Exchange Act of 1934, Exchange Act Release No. 34–104281 (Dec. 1, 2025), available at *https://www.sec.gov/files/rules/other/2025/34-104281.pdf;* ICE Clear Credit LLC; Order Granting an Application for Registration as a Clearing Agency under Section 17A of the Securities Exchange Act of 1934, Exchange Act Release No. 34–104762 (Jan. 30, 2026), available at *https://www.sec.gov/files/rules/other/2026/34-104762.pdf.* As discussed further below, this exemption order applies to the definition of an eligible secondary market transaction generally and is not specific to FICC.

[10] *See* MFA Letter, *supra* note 6, at 3; SIFMA AMG Letter, *supra* note 7, at 3.

[11] *See* MFA Letter, *supra* note 6, at 3; SIFMA AMG Letter, *supra* note 7, at 3.

[12] *See* MFA Letter, *supra* note 6, at 3; SIFMA AMG Letter, *supra* note 7, at 3.

[13] *See* MFA Letter, *supra* note 6, at 3; SIFMA AMG Letter, *supra* note 7, at 3.

[14] *See* MFA Letter, *supra* note 6, at 4 (*citing* Adopting Release, *supra* note 1, at 2737). *See also* SIFMA AMG Letter, *supra* note 7, at 4 (stating that the requested relief does not affect the outward-facing condition, the majority ownership condition, or the accounting consolidation condition, and ''therefore does not reduce the volume of transactions subject to central clearing'').

condition, the accounting consolidation condition, and the outward facing condition (to the extent the outward-facing condition would otherwise apply).

Section 36(a) of the Exchange Act authorizes the Commission, by rule, regulation or order, to exempt, either conditionally or unconditionally, any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Exchange Act or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.[15] In addition, under Section 17A(b)(1) of the Exchange Act, the Commission, by rule or order, upon its own motion or upon application, may conditionally or unconditionally exempt any clearing agency or security or any class of clearing agencies or securities from any provisions of this section or the rules or regulations thereunder, if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this section, including the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds.[16]

The Commission is using its authority under Section 36 and Section 17A of the Exchange Act to provide a conditional exemption from the definition of an eligible secondary market transaction under Rule 17ad–22(a), meaning that a U.S. Treasury securities CCA will be exempt from enforcing the Trade Submission Requirement with respect to repo transactions between a Private Fund and its Captive Clearing Sub that is a direct participant if the conditions stated above are met. The Commission finds such conditional exemption to be consistent with the public interest and the protection of investors, as required under Section 36, and with the purposes of Section 17A of the Exchange Act, including the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds, as required under Section 17A.

First, this conditional exemption is consistent with the rationale for the Trade Submission Requirement, *i.e.,* reducing the amount of contagion risk to a U.S. Treasury securities CCA.[17] With this exemption, a Captive Clearing Sub would be able to submit for central clearing the repo transactions of its affiliated Private Funds. Because these transactions would be submitted for central clearing, the U.S. Treasury securities CCA would be able to risk manage these transactions, pursuant to uniform risk management procedures that the Commission has reviewed and approved. In addition, the outward-facing condition, in which the Private Fund must submit for clearance and settlement all other repo transactions to which the Private Fund is a party, would continue to apply. Therefore, under this exemption, the contagion risk would already be addressed because the external repo transactions between the Captive Clearing Sub, or the Private Fund, and a third-party would be centrally cleared, and requiring the inter-affiliate transaction to be cleared would not create additional benefits.[18] Thus, the exemption is consistent with reducing the contagion risk to a U.S. Treasury securities CCA, which in turn, is consistent with promoting the prompt and accurate clearance and settlement of U.S. Treasury securities and the safeguarding of securities and funds.

Second, the Commission agrees with the associations that the conditional exemption will accommodate a form of direct access to central clearing by Private Funds, which in turn should help facilitate increased access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities. Application of the bank/BD/FCM condition eliminates the practical availability of the Inter-Affiliate Exclusion for Private Funds because Private Funds, through their Captive Clearing Subs, would not be able to directly access central clearing on a cost-effective basis. In turn, this would limit a Private Fund's only means of accessing central clearing to unaffiliated third-party direct participants, which may be unwilling or unable to centrally clear all transactions on behalf of the Private Funds.[19] By providing this conditional exemption, a Private Fund would be able, consistent with current practice, to access central clearing through its Captive Clearing Sub, which could increase clearing capacity and bring the risk-reducing benefits of central clearing to more transactions involving U.S. Treasury securities than may otherwise occur once the Trade Submission Requirement is effective, thereby lowering overall systemic risk in the market. Therefore, the exemption is consistent with promoting the prompt and accurate clearance and settlement of securities transactions, the public interest, and the protection of investors.

Third, using this form of direct access generally means that a Private Fund would use its own capital to fund its margin requirements, through its Captive Clearing Sub, to the U.S. Treasury securities CCA entirely (*i.e.,* the Private Fund would not rely, in whole or in part, on the capital of unaffiliated third-party direct participants to fund the Private Fund's margin requirements). By having the Private Funds fund their own margin, this structure could free up capital for unaffiliated third-party direct participants to sponsor other, smaller market participants into central clearing. As mentioned above, increased clearing capacity could bring the risk-reducing benefits of central clearing to more transactions involving U.S. Treasury securities, thereby lowering overall systemic risk in the market, which is consistent with promoting the prompt and accurate clearance and settlement of securities transactions, the public interest, and the protection of investors.

Furthermore, providing this exemption that should allow Private Funds to access central clearing through a Captive Clearing Sub should continue to help facilitate a U.S. Treasury securities CCA's ability to isolate the risk profile of the Private Funds and thereby understand its risk exposure to the Private Funds and manage the risks of Private Funds' transactions, including, among other things, the collection of margin.[20] As the

[15] 15 U.S.C. 78mm.

[16] 15 U.S.C. 78q–1(b)(1).

[17] *See* Adopting Release, *supra* note 1, at 2717 (stating that ''the requirement to clear eligible secondary market transactions is designed to reduce the amount of 'contagion risk' to a U.S. Treasury securities CCA arising from what has been described as 'hybrid clearing' '' in which ''a direct participant's transactions that are not submitted for central clearing pose an indirect risk to the covered clearing agency, as any default on a bilaterally settled transaction could impact the direct participant's financial resources and ability to meet its obligations to the covered clearing agency'').

[18] *See* Adopting Release, *supra* note 1, at 2737 (stating that ''[r]egarding the conditional nature of the exclusion, the Commission agreed with the commenter that if the external transaction of a 'back-to-back' arrangement in which the related external transaction between the affiliated counterparty and a non-affiliated counterparty is centrally cleared, the contagion risk would already be addressed and requiring the inter-affiliate transaction to be cleared would not create additional benefits.'').

[19] *See, e.g.,* SIFMA AMG Letter, *supra* note 7, at 3.

[20] *See, e.g.,* 17 CFR 240.17ad–22(e)(6)(i) and (ii)(A) (requiring that a CCA establish, implement, maintain and enforce written policies and procedures reasonably designed to, cover, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market, and, if the covered clearing

Commission recognized in the Adopting Release, the centralization of activity at clearing agencies makes risk management at such entities a critical function.[21] Because this structure will preserve these risk controls and margin funding obligations, the exemption is consistent with the safeguarding of securities and funds as well as the public interest and the protection of investors.

III. Conclusion

Accordingly, *it is ordered,* pursuant to Sections 17A and 36 of the Exchange Act, that the Commission grants a conditional exemption for the transactions described in this Order, from the definition of an eligible secondary market transaction in Rule 17ad–22(a).

By the Commission.

Dated: June 18, 2026.

Vanessa A. Countryman,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105719; File No. SR–NYSEAMER–2026–51]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 900.2NY To Require ATP Holders To Review Customer Activity on a Monthly Basis

June 17, 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 June 10, 2026, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to change the review period American Trading Permit (''ATP'') Holders are required to determine whether orders that are not for a Broker/Dealer should be represented as a ''Customer'' or ''Professional Customer.'' [4] 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 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

ATP Holders are required to review their customers' activity on at least a quarterly basis to determine whether orders that are not for the account of a Broker/Dealer should be represented as Customer orders or Professional Customer orders.[5] Orders for any non-Broker/Dealer that had an average of more than 390 orders per day during any calendar month (within the quarterly review period) must be represented as Professional Customer for the next calendar month.[6] ATP Holders are required to make any appropriate changes to the way in which they are representing orders within five days after the end of the calendar quarter.[7]

The Exchange proposes to amend the Rule 900.2NY definition of Customer and Professional Customer by adding language to require that American Trade Permit (''ATP'') Holders review their customers' activity on a monthly basis to determine whether orders that are not for a Broker or Dealer should be represented as Customer or Professional Customer and make any appropriate changes to the way in which they are representing such orders within five days after the end of the calendar month rather than within five days after the end of the calendar quarter.

Determining whether a customer has executed more than 390 orders per day during a month within a calendar quarter requires computing a daily average. As such, ATP Holders should already be performing the workflow necessary to designate orders on a daily basis. Therefore, the proposal does not increase the current workflow. Rather, the proposal merely shortens the time in which OTP [sic] Holders and OTP Firms [sic] are required to make changes to the way in which they are representing the orders from five days after the end of each calendar quarter to five days after the end of each calendar month.

The Exchange does not believe that this amendment is a significant departure from the current practice, nor does it impose any burden on any ATP Holder because each broker-dealer is currently required to perform the necessary calculation daily to arrive at the requisite average. Further, in addition to the calculation, broker-dealers are subject to know-your-customer and suitability requirements under FINRA Rules 2090 (Know Your Customer) and 2111 (Suitability) and would need to consider whether a Customer meets the Professional Customer designation for purposes of determining best execution and making appropriate recommendations.

The Exchange believes that a calendar month is sufficient time to determine whether the activity of a Customer meets the criteria for a Professional Customer order. The Exchange believes that the shortened time period will ensure that the spirit of the designation of Professional Customer order is met in that ATP Holders will make any appropriate changes in how they are representing orders in a 30-day timeframe as opposed to a 90-day timeframe, thereby ensuring the

agency provides central counterparty services for U.S. Treasury securities, calculates, collects, and holds margin amounts from a direct participant for its proprietary positions in Treasury securities separately and independently from margin calculated and collected from that direct participant in connection with U.S. Treasury securities transactions by an indirect participant that relies on the services provided by the direct participant to access the covered clearing agency's payment, clearing, or settlement facilities, and marks participant positions to market and collects margin (including variation margin or equivalent charges if relevant) at least daily).

[21] *See* Adopting Release, *supra* note 1, at 2716.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The term ''Customer'' means an individual that is not a Broker/Dealer. The term ''Professional Customer'' means an individual or organization that (i) is not a Broker/Dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Rule 900.2NY Definitions. The manner in which a Professional Customer order is calculated is specified in subparagraphs (a) through (c) of the Rule 900.2NY definition.

[5] *See supra,* [sic] Regulatory Informational Bulletin RBO–AMEX–10–11 and NYSE Regulation, Inc. Joint Regulatory Bulletin, NYSE Amex RBO–15–06 ''Professional Customer Orders'' (September 9, 2015) (''NYSE Amex RBO–15–06'').

[6] Id.

[7] Id.

designation is applied in a more expeditious manner.

The Exchange continues to believe that identifying Professional Customer orders based upon the average number of orders entered in qualified accounts is an appropriate and objective approach to reasonably distinguish such persons and entities from retail investors or other market participants.

Implementation

The Exchange proposes implementing this rule change on July 1, 2026. The Exchange will issue a Trader Update to provide notice to ATP Holders of the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. In addition, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5)[10] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposal to shorten the quarterly look-back to a monthly look-back is consistent with the Act because it will ensure that the spirit of the designation of Professional Customer orders continues to be met, only on a more expedited basis—removing a potential delay of two months before affecting a change in the designation. The Exchange believes that this amendment will remove impediments to and perfect the mechanism of a free and open market and a national market system by promoting the consistent application of its rules and shortening the timeframe to change the designation for all ATP Holders while continuing to provide a sufficient time period to determine whether the activity of a Customer meets the criteria for a Professional Customer order. Further, the Exchange believes that the shortened time period will continue to promote consistency in the treatment of orders as Professional Customer orders while also preventing members with high volume from receiving benefits reserved for Customer orders.

As noted above, ATP Holders are required to review their customers' activity on at least a quarterly basis to determine whether orders that are not for the account of a Broker/Dealer should be represented as Customer orders or Professional Customer orders.[11] Orders for any non-Broker/Dealer that had an average of more than 390 orders per day during any calendar month (within the quarterly review period) must be represented as Professional Customer for the next calendar month.[12] ATP Holders are required to make any appropriate changes to the way in which they are representing orders within five days after the end of the calendar quarter.[13]

Determining whether a customer has executed more than 390 orders per day during a month requires computing a daily average. As such, ATP Holders should already be performing the workflow necessary to designate orders on a daily basis. Therefore, the proposal does not increase the current workflow. Rather, the proposal merely shortens the time in which ATP Holders are required to make changes to the way in which they are representing the orders from five days after the end of each calendar quarter to within five days after the end of each calendar month.

The Exchange does not believe that this amendment is a significant departure from the current rule, nor does it impose any burden on any ATP Holder because each broker-dealer is currently required to perform the necessary calculation daily to arrive at the requisite average. Further, in addition to the calculation, broker-dealers are subject to know-your-customer and suitability requirements under FINRA Rules 2090 (Know Your Customer) and 2111 (Suitability) and would need to consider whether a Customer meets the Professional Customer designation for purposes of determining best execution and making appropriate recommendations.

The Exchange notes that the trading behavior of a Customer can be distinguished from that of a Professional Customer which is the purpose of the separate designations. The Exchange continues to believe that identifying Professional Customer orders based upon the average number of orders entered in qualified accounts is an appropriately objective approach to reasonably distinguish such persons and entities from retail investors or market participants. Priority is one of the marketplace advantages provided to Customer orders on the Exchange. Customer orders are given execution priority over non-Customer orders.[14] Another marketplace advantage afforded to Customer orders on the Exchange is that members are generally not assessed transaction fees or are assessed lower fees for the execution of Customer orders.[15] The purpose of these marketplace advantages is to attract retail order flow to the Exchange by leveling the playing field for retail investors over market professionals. This proposal will continue to provide Customer accounts with marketplace advantages and distinguish the accounts of non-professional retail investors from the Professional Customer accounts. The Exchange notes that some non-broker-dealer individuals and entities have access to information and technology that enables them to professionally trade listed options in the same manner as a broker or dealer in securities.

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.

Specifically, the Exchange does not believe that the proposed rule change will impose any burden on intra-market competition because each ATP Holder is already required to monitor Customer orders to determine if the Customer has averaged more than 390 orders per day during a month. Determining whether a Customer has executed more than 390 orders per day during a month requires computing a daily average. As such, ATP Holders should already be performing the workflow necessary to designate orders on a daily basis. Therefore, the proposal does not increase the current workflow. Rather, the proposal merely amends the timeframe to change how the Customer's order is being represented from five days after the end of each calendar quarter to five days after the end of each calendar month. The Exchange does not believe that this amendment is a significant departure from the current rule, nor does it impose

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(5).

[11] *See supra,* Regulatory Informational Bulletin RBO–AMEX–10–11 and NYSE Amex RBO–15–06.

[12] Id.

[13] Id.

[14] *See* Rule 964NYP, ''At each price, all orders and quotes are assigned a priority category, and, within each priority category, Customer orders are ranked ahead of non-Customer.''

[15] *See* NYSE American Options Fee Schedule, Section IA Rates for Options transactions.

any burden on any ATP Holder because each broker-dealer is already required to perform the necessary calculation daily to arrive at the requisite average.

Further, in addition to the calculation, broker-dealers are subject to know-your-customer and suitability requirements under FINRA Rules 2090 (Know Your Customer) and 2111 (Suitability) and would need to consider whether a Customer meets the professional designation for purposes of determining best execution and making appropriate recommendations. The Exchange notes that the trading behavior of a Customer can be distinguished from that of a Professional Customer which is the purpose of the separate designations. Customers have been granted certain priority over other non-broker-dealer individuals and entities that have access to information and technology that enables them to professionally trade listed options in the same manner as a broker or dealer in securities.

Finally, the Exchange notes that Nasdaq ISE, LLC has adopted a similar rule and other options exchanges may choose to file similar proposals with the Commission to change the time in which its members are required to review and determine whether orders should be represented as Professional Customer.

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

Pursuant to Section 19(b)(3)(A) of the Act[16] and Rule 19b–4(f)(6)[17] 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.[18]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[19] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay so that the proposal can become effective upon filing. The Exchange states that the proposal would not increase the current workflow imposed on ATP Holders, but instead would shorten the time (from quarterly to monthly) within which ATP Holders are required to make changes with respect to how they represent orders. Further, the Exchange states that the proposal is not a significant departure from the current requirements and ATP Holders will continue, as they do today, to perform the requisite daily calculation to determine whether Customer orders should be designated as Professional Customer. Further, the Exchange states that the shortened time period will promote consistency in the treatment of orders as Professional Customer orders. For these reasons, and because the proposal does not raise any 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 hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[20]

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–NYSEAMER–2026–51 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–2026–51. 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–2026–51 and should be submitted on or before July 14, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–12530 Filed 6–22–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105710; File No. SR-CboeBYX–2026–026]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend Rule 11.9(d) To Permit an Intermarket Sweep Order ("ISO") To Be Entered as a Non-Displayed Order and To Establish the Price Level at Which the System Will Consider an ISO Available for Other Orders To Be Entered

June 17, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6).

[18] 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 requested waiver of the five-day prefiling requirement for this proposal for the reasons stated in its filing, which the Commission hereby grants.

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 17 CFR 200.30–3(a)(12), (59).

''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 5, 2026, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') proposes to amend Rule 11.9(d) to: (i) permit an Intermarket Sweep Order to be entered as a Non-Displayed Order and (ii) to establish the price level at which the System will consider an Intermarket Sweep Order available for other orders to be entered. The Exchange also proposes to amend Rule 11.9(g)(4) to permit Non-Displayed Orders to re-price to more aggressive prices. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/equities/regulation/rule_filings/byx/*), 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

As part of its suite of order types, BYX currently offers Users the ability to enter Intermarket Sweep Orders (''ISOs''), which are limit orders for an NMS stock that meet the following requirements: (i) when routed to a trading center, the limit order is identified as an ISO; (ii) simultaneously with the routing of the limit order identified as an ISO, one or more additional limit orders, as necessary, are routed to execute against the full displayed size of any protected bid, in the case of a limit order to sell, or the full displayed size of any protected offer, in the case of a limit order to buy, for the NMS stock with a price that is superior to the limit price of the limit order as identified as an ISO (and these additional routed orders also must be marked as ISOs).[3] Currently, the Exchange does not specify that ISOs may be entered as Non-Displayed Orders.[4] Based on User[5] feedback, the Exchange proposes to amend Rule 11.9(d) to permit ISOs to be entered as Non-Displayed Orders (''Non-Displayed ISOs''). In addition to the proposed introduction of Non-Displayed ISOs, the Exchange also proposes to amend Rule 11.9(d) to establish the price level at which the System[6] will consider an ISO available for other orders to be entered. Lastly, in conjunction with the proposed amendment to Rule 11.9(d) to allow for Non-Displayed ISOs, the Exchange also proposes to amend Rule 11.9(g)(4) to permit Non-Displayed Orders to re-price to more aggressive prices.

Intermarket Sweep Orders

The Exchange currently permits Users to submit ISOs pursuant to Rule 11.9(d). In order to be eligible for treatment as an ISO, the limit order must be marked ISO and the User entering the order must simultaneously route one or more additional limit orders marked ''ISO,'' as necessary, to away markets to execute against the full displayed size of any Protected Quotation[7] for the security with a price that is superior to the limit price of the ISO entered in the System.[8] Such orders, if they meet the requirements of the foregoing sentence, may be executed at one or multiple price levels in the system without regard to Protected Quotations at away markets consistent with Regulation NMS (*i.e.,* may trade through such quotations).[9] The Exchange relies on the marking of an order as an ISO order when handling such order, and thus, it is the entering Member's responsibility, not the Exchange's responsibility, to comply with the requirements of Regulation NMS as it relates to ISOs.[10] ISOs are not eligible for routing pursuant to Rule 11.13(b).[11]

The Exchange now proposes to add a sentence to Rule 11.9(d) that states that an ISO may be entered as a displayed order or as a Non-Displayed Order (a ''Non-Displayed ISO''). The Exchange notes that at least one other exchange[12] offers the ability to submit ISOs containing a Non-Displayed instruction and does not believe that its proposal introduces a novel order type.

In addition to permitting an ISO to be entered as a Non-Displayed Order, the Exchange also proposes to introduce Rules 11.9(d)(1)–(3) that establish the price level at which the System will consider an ISO available for other orders to be entered.

Proposed Rule 11.9(d)(1) would provide that upon receipt of an ISO during Regular Trading Hours,[13] the System will consider the limit price of the ISO to be available for new orders to be entered at that price level. Resting orders would re-price to the limit price of the ISO based on User instruction, unless the ISO is not itself accepted at that price level (for example, a Post-Only Order[14] that was cancelled to avoid executing against an Order on the BYX Book[15]) or the ISO is a Non-Displayed Order.

Proposed Rule 11.9(d)(2) would provide that upon receipt of an ISO during the Early Trading Session,[16] Pre-Opening Session,[17] or After Hours Trading Session,[18] the System will not

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Regulation NMS Rule 600(a)(47).

[4] *See* Exchange Rule 11.9(c)(11). A ''Non-Displayed Order'' is a market or limit order that is not displayed on the Exchange.

[5] *See* Exchange Rule 1.5(cc). The term ''User'' shall mean any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.

[6] *See* Exchange Rule 1.5(aa). The term ''System'' shall mean the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.

[7] *See* Rule 1.5(t). The term ''Protected Quotation'' shall mean a quotation that is a Protected Bid or Protected Offer.

[8] *See* Exchange Rule 11.9(d).

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] *See, e.g.,* Nasdaq Equity 4, Rule 4702(b)(3)(C) and Nasdaq Equity 4, Rule 4703(j).

[13] *See* Rule 1.5(w). The term ''Regular Trading Hours'' means the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[14] *See* Rule 11.9(c)(6). A ''BYX Post Only Order'' is an order that is to be ranked and executed on the Exchange pursuant to Rule 11.12 and Rule 11.13(a)(4) or cancelled, as appropriate, without routing away to another market center except that the order will not remove liquidity from the BYX Book, other than as described in Rule 11.9(c)(6).

[15] *See* Rule 1.5(e). The term ''BYX Book'' shall mean the System's electronic file of orders.

[16] *See* Rule 1.5(ff). The term ''Early Trading Session'' shall mean the time between 4:00 a.m. and 8:00 a.m. Eastern Time.

[17] *See* Rule 1.5(r). The term ''Pre-Opening Session'' shall mean the time between 8:00 a.m. and 9:30 a.m. Eastern Time.

[18] *See* Rule 1.5(c). The term ''After Hours Trading Session'' shall mean the time between 4:00 p.m. and 8:00 p.m. Eastern Time.

consider the limit price of an ISO to be available for new orders to be entered at that price, and resting orders will not re-price based on the limit price of the ISO.

Proposed Rule 11.9(d)(3) would provide that notwithstanding subparagraphs (1) and (2), the System will consider the limit price of an ISO entered during Regular Trading Hours to remain available for new orders to be entered or resting orders to re-price based on User instruction if such order remains eligible for execution during the After Hours Trading Session. The System will not consider the limit price of an ISO entered during the Early Trading Session or Pre-Opening Session to be available for new orders to be entered or resting orders to re-price based on User instruction if such order remains eligible for execution during Regular Trading Hours or during the After Hours Trading Session. The Exchange has provided examples below to demonstrate how proposed Rules 11.9(d)(1)–(3) would operate.

Example 1 [19]

Upon receipt of an ISO during Regular Trading Hours, the System will consider the limit price of an ISO to be available for new orders to be entered at that price level and resting orders would re-price to the limit price of the ISO.[20]

NBBO: $10.00 × $10.05 (assume BYX not on the NBO).

Order 1: Buy 1,000 at $10.06—Displayed, price slide. Order 1 is posted to the BYX Book ranked at the locking price of $10.05 and displayed at a price of $10.04 pursuant to Rule 11.9(g)(1)(A).

Order 2: Buy 100 at $10.05—Displayed, Day, ISO. Order 2 is posted to the BYX Book and displayed at a price of $10.05 as there is no contra-side liquidity on the BYX Book to execute against upon entry.

Result: Upon the receipt of Order 2, pursuant to Rule 11.9(g)(1)(A) and User instruction, Order 1 is displayed and ranked at a price of $10.05. Order 1 is permitted to join the price level of the ISO pursuant to proposed Rule 11.9(d)(1) as the User submitting the ISO is required to simultaneously route one or more additional limit orders marked ISO, as necessary, to away markets to execute against the full displayed size of any locked or crossed Protected Quotation.[21]

Example 2 [22]

Upon receipt of an ISO during the Early Trading Session, Pre-Opening Session, or After Hours Trading Session, the System will not consider the limit price of an ISO to be available for other orders to be entered at that price, and resting orders will not re-price based on the limit price of the ISO.[23]

NBBO: $10.00 × $10.05 (assume BYX not on the NBO).

Order 1: Buy 10,000 at $10.06—Displayed; Multiple Price Slide. Order 1 is posted to the BYX Book ranked at the locking price of $10.05 and displayed at a price of $10.04, pursuant to Rule 11.9(g)(1)(A).

Order 2: Buy 100 @$10.06—Displayed, Day, ISO.

Result: Upon entry, Order 2 is posted to the BYX Book as there is no contra-side liquidity on the BYX Book to execute against. Order 2 is ranked and displayed at $10.06 pursuant to Rule 11.9(d). Pursuant to proposed Rule 11.9(g)(1)(A), Order 1 remains ranked at the locking price of $10.05 and displayed at a price of $10.04 upon receipt of Order 2.[24] As Rule 611 of Regulation NMS does not apply outside of Regular Trading Hours, Order 2 is not required to simultaneously route additional ISOs, as necessary, to execute against the full displayed size of any protected offer. Therefore, the Exchange believes it would be inappropriate to use the limit price of Order 2 as a reference point for the re-pricing of Order 1.

Example 3

Upon receipt of an ISO during the Early Trading Session, Pre-Opening Session, or After Hours Trading Session, the System will not consider the limit price of an ISO to be available for other orders to be entered at that price, and resting orders will not re-price based on the limit price of the ISO.[25]

NBBO: $10.00 × $10.05 (assume BYX not on the NBO).

Order 1: Buy 10,000 at $10.06—Displayed; Multiple Price Slide. Order 1 is posted to the BYX Book ranked at the locking price of $10.05 and displayed at a price of $10.04, pursuant to Rule 11.9(g)(1)(A).

Order 2: Buy 100 @$10.06—Non-Displayed, Day, ISO.

Result: Upon entry, Order 2 is posted to the BYX Book as there is no contra-side liquidity on the BYX Book to execute against. Order 2 is ranked at the locking price of $10.05 pursuant to proposed Rule 11.9(g)(4). Order 1 remains ranked at the locking price of $10.05 and displayed at a price of $10.04 upon receipt of Order 2 pursuant to Rule 11.9(g)(1)(A).

Example 4

The System will consider the limit price of an ISO entered during Regular Trading Hours to remain available for new orders to be entered or resting orders to re-price based on User instruction if such order remains eligible for execution during the After Hours Trading Session.

NBBO: $10.00 × $10.05 (assume BYX not on the NBO).

Order 1: Buy 100 at $10.06—Displayed, Day, ISO. Order 1 is ranked and displayed at $10.06 pursuant to Rule 11.9(d) as there is no contra-side liquidity on the BYX Book to execute against upon entry. Order 1 is entered during Regular Trading Hours and persists in to the After Hours Trading Session.

Order 2: Buy 10,000 at $10.06—Displayed, Multiple Price Slide. Order 2 is entered during the After Hours Trading Session.

Result: Order 2 is posted and displayed at $10.06 because Order 1 established the $10.06 price level during Regular Trading Hours pursuant to proposed Rule 11.9(d)(3).

Non-Displayed Order Sliding

In addition to the proposed changes to permit an ISO to be entered as a Non-Displayed Order, the Exchange also proposes to amend Rule 11.9(g)(4) (''Non-Displayed Order Sliding'') to permit Users to elect multiple price sliding for Non-Displayed Orders. Currently, a Non-Displayed Order containing a price slide instruction that crosses the Protected Quotation of an away market will receive a new timestamp and will be ranked by the System at the locking price.[26] Once a Non-Displayed Order has been re-priced due to crossing the Protected Quotation of an away market, the Non-Displayed Order will not be re-priced by the System unless it is again crossing a Protected Quotation of an away market.[27] The Exchange now proposes to amend Rule 11.9(g)(4) to allow a User to elect to have a Non-Displayed Order re-price each time the NBBO changes that would permit the order to be

[19] For this example, assume that all orders are sent during Regular Trading Hours.

[20] *See* proposed Rule 11.9(d)(1).

[21] *See* Rule 11.20(d)(3).

[22] For this example, assume that all orders are sent during the Early Trading Session or Pre-Opening Session.

[23] *See* proposed Rule 11.9(d)(2).

[24] Under current Exchange Rules, Order 1 would be re-priced and displayed at $10.06 pursuant to Rule 11.9(g)(1)(C) as Rule 610(d) of Regulation NMS is not violated during the Early Trading Session or Pre-Opening Session.

[25] *See* proposed Rule 11.9(d)(2).

[26] *See* Rule 11.9(g)(4).

[27] *Id.*

ranked at a more aggressive price without crossing a Protected Quotation of an external market and to clarify that a Non-Displayed Order will retain its original limit price irrespective of the price at which such Non-Displayed Order is ranked.

The Exchange proposes to delete the following language in Rule 11.9(g)(4): ''Similarly, in the event the NBBO changes such that a Non-Displayed Order subject to display-price sliding or Price Adjust would cross a Protected Quotation of an external market, the order will receive a new timestamp, and will be ranked by the System at the locking price. In the event a Non-Displayed Order has been re-priced by the System pursuant to this sub-paragraph (4), such Non-Displayed order is not re-priced by the System unless it is again crossing a Protected Quotation of an external market.''

The proposed revised language of Rule 11.9(g)(4) is as follows:

> In order to avoid potentially trading through Protected Quotations of external markets, the Exchange offers price sliding for Non-Displayed Orders that upon entry cross a Protected Quotation of an external market that is functionally equivalent to the handling of displayable orders pursuant to the display-price sliding process except that such orders will not have a displayed price. Non-Displayed Orders that upon entry would cross the Protected Quotation of an external market and are subject to display-price sliding or Price Adjust are ranked at the locking price on entry. By default, a Non-Displayed Order that has been re-priced pursuant to this sub-paragraph (4) shall not be re-priced again unless the order's ranked price is again crossing the Protected Quotation of an external market. Notwithstanding the foregoing, a User may elect to have the System re-rank and re-price a Non-Displayed Order each time the NBBO changes that would permit the order to be ranked at a more aggressive price without crossing a Protected Quotation of an external market, in which case the order shall be re-ranked at the most aggressive permissible price. Each time a Non-Displayed Order is re-priced, the order shall receive a new timestamp. A Non-Displayed Order will retain its original limit price irrespective of the price at which such order is ranked.

The Exchange has provided examples below of how a Non-Displayed Order subject to the proposed price sliding text would behave.

Example 5

The System will slide a Non-Displayed Order pursuant to proposed Rule 11.9(g)(4) based on User instruction.

NBBO: $10.00 × $10.05 (assume BYX not at NBO)

Order 1: Sell 100 at $10.06—Non-Displayed.

Order 2: Sell 100 at $10.07—Non-Displayed.

Order 3: Buy 600 at $10.07—Non-Displayed, Day, Multiple Price Slide. Pursuant to proposed Rule 11.9(g)(4), Order 3's shares are posted to the BYX Book and ranked at a price of $10.05. Order 3's shares are not displayed.

NBBO Updated: $10.03 × $10.07

Result: When Order 3 arrives, its limit price of $10.07 crosses the Protected Quotation (offer at $10.05). Pursuant to current and proposed Rule 11.9(g)(4), Order 3 is therefore ranked at the locking price ($10.05) upon entry. After the change to the NBBO, the non-displayed nature of Order 3 allows it to lock the NBBO. Since Order 3 contains an instruction to slide multiple times, Order 3 is slid to a ranked price of $10.07 pursuant to proposed Rule 11.9(g)(4). Order 3 then trades 100 shares at $10.06 against Order 1 and 100 shares at $10.07 against Order 2. Order 3's remaining 400 shares are then posted to the BYX Book at a price of $10.07 pursuant to proposed Rule 11.9(g)(4).

Example 6

Non-Displayed Orders containing an ISO instruction will be permitted to execute up to their limit prices upon entry pursuant to proposed Rule 11.9(d) and then will re-price based on User instruction pursuant to proposed Rule 11.9(g)(4).

NBBO: $10.00 × $10.05 (assume BYX not at NBO)

Order 1: Sell 100 at $10.06—Displayed.

Order 2: Buy 600 at $10.07—Non-Displayed, Day, ISO, Multiple Price Slide.

Result: Order 2 trades 100 shares with Order 1 at a price of $10.06 pursuant to proposed Rule 11.9(d), which permits an ISO to be entered with a non-displayed instruction. Order 2's remaining 500 shares post to the BYX Book at the locking price of $10.05 pursuant to proposed Rule 11.9(g)(4). Assume the NBBO then updates to $10.03 × $10.07. Since Order 2 contained an instruction to re-price to more aggressive prices, Order 2 is then re-priced to the locking price of $10.07 pursuant to proposed Rule 11.9(g)(4).

The Exchange believes that the proposed changes, when viewed individually and holistically, serve to create a more valuable trading experience for market participants. In particular, the proposal expands the utility of an existing, well-established order type in a manner that is consistent with the regulatory framework underlying ISOs while also providing clear, transparent, and predictable rules governing the interaction between ISOs, other resting orders on the BYX Book, and new orders arriving to the BYX Book. Additionally, the Exchange's proposal to permit Non-Displayed Orders to re-price to more aggressive prices complements the Exchange's proposal to introduce Non-Displayed ISOs as it allows for Users to submit ISOs with a non-displayed instruction and allow such orders to react to changing market conditions should those orders post to the BYX Book. Together, the proposed rule changes seek to provide additional options for market participants seeking to employ non-displayed trading strategies on the Exchange and provide additional clarity regarding the interaction between ISOs, resting orders on the BYX Book, and new orders arriving to the BYX Book.

Implementation

The Exchange proposes to implement the proposed functionality during the second half of 2026 and will announce the date via Trade Desk Notice.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[28] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[29] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[30] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposal expands the utility of an existing, well-established order type in a manner that is consistent with the regulatory framework underlying ISOs. Under Regulation NMS, a User submitting an ISO represents that it has simultaneously routed one or more

[28] 15 U.S.C. 78f(b).

[29] 15 U.S.C. 78f(b)(5).

[30] *Id.*

additional limit orders to execute against the full displayed size of any Protected Quotation at prices superior to the limit price of the ISO. The Exchange's reliance on that representation is longstanding and well-understood. Permitting Users to enter ISOs with a non-displayed instruction does not alter or undermine that representation—Users remain fully responsible for their compliance with the requirements of Regulation NMS relating to ISOs. Rather, the proposal simply affords Users greater flexibility in the manner in which they choose to interact with the marketplace, consistent with the spirit and requirements of fair and orderly trading.

Additionally, a wide variety of trading strategies depend upon the ability to manage order flow in a non-displayed capacity. Many institutional and professional market participants have legitimate, lawful reasons to conceal the full extent of their trading interest, including to minimize market impact and to facilitate the efficient execution of large orders over time. The Exchange's current framework, which does not permit ISOs to be entered as Non-Displayed Orders, unnecessarily constrains Users who wish to employ such strategies. By removing this limitation, the Exchange promotes just and equitable principles of trade by enabling Users to more effectively implement their trading strategies across market centers in a manner that is consistent with applicable law.

The introduction of Non-Displayed ISOs directly enables Users to implement cross-market trading strategies that require both the Regulation NMS ISO framework and the ability to post residual order interest in a non-displayed capacity. Under the current rule framework, Users who wish to employ such strategies are unable to do so on the Exchange and may be required to route order flow to competing venues that already offer comparable functionality. The inability to offer a Non-Displayed ISO order type thus creates a structural impediment—both to Users seeking to execute their strategies efficiently and to the Exchange's ability to compete effectively within the national market system. The Exchange notes that at least one other national securities exchange currently offers the ability to submit ISOs with a non-displayed instruction.[31] The Exchange's proposal to introduce Non-Displayed ISOs is therefore a competitive response that is consistent with the architecture of the national market system and does not introduce a novel order type.

The introduction of Non-Displayed ISOs is designed to protect investors and the public interest because the proposal enhances the ability of institutional and professional investors to efficiently execute large orders across multiple market centers without unduly signaling their trading interest to the market. The ability to manage market impact is an important dimension of best execution for investors with substantial order flow, and the Exchange's proposal promotes investor protection by affording these participants a tool that is already available on competing venues, thereby providing an equal opportunity for Users who trade on the Exchange to use a comparable order type.

The Exchange believes that its proposal to introduce Rules 11.9(d)(1) through (3), which describe the price level at which the System will consider an ISO available for other orders to be entered, similarly promotes just and equitable principles of trade and protects investors and the public interest by providing Users with clear, transparent, and predictable rules governing the interaction between ISOs, other resting orders on the BYX Book, and new orders arriving to the BYX Book.

Specifically, the delineation between Regular Trading Hours (during which the limit price of a displayed ISO will be considered available for both new orders to join and for resting orders to re-price based on User instruction) and off-hours sessions (during which the limit price of an ISO will not be considered available for new orders to join or for such re-pricing) reflects the materially different regulatory and market structure dynamics that apply during those sessions. During Regular Trading Hours, a User submitting a displayed ISO has represented compliance with Regulation NMS trade-through obligations with respect to Protected Quotations, thereby establishing a reliable price level to which resting orders may join. Outside of Regular Trading Hours, the absence of this same regulatory framework makes it inappropriate to use the ISO limit price as a reference point for resting order re-pricing. This distinction promotes just and equitable principles of trade by ensuring that order re-pricing behavior is tied to well-defined, appropriate, and lawful market conditions. By contrast, the Exchange's proposal that a Non-Displayed ISO will not trigger re-pricing of resting orders further promotes just and equitable principles of trade and protects investors and the public interest, as it would be inappropriate for a price level that is not publicly disseminated to serve as the basis for resting orders to obtain a new, more aggressive ranked price.

The Exchange further believes that its proposal to codify Rules 11.9(d)(1) through (3) removes impediments to and perfects the mechanism of a free and open market and national market system by providing explicit, rule-based transparency around the operation of ISOs on the BYX Book. Prior to this proposal, the Exchange's rules did not expressly address the price level at which an ISO would be considered available for new orders to be entered or for resting orders to re-price. By codifying these rules with clear distinctions based on trading session and order type—including the treatment of ISOs during Regular Trading Hours versus off-hours sessions and the handling of Non-Displayed ISOs—the Exchange removes ambiguity that could otherwise impede Users' ability to structure and implement their trading strategies effectively. Clear and predictable rules governing how ISOs interact with the BYX Book are fundamental to the proper functioning of a free and open market, as they allow market participants to understand with certainty how their orders will be handled and to make informed routing and execution decisions accordingly.

The Exchange believes that its proposal to amend Rule 11.9(g)(4) to permit Non-Displayed Orders to re-price multiple times based on User instruction promotes just and equitable principles of trade and protects investors and the public interest by providing Users with greater control over how their Non-Displayed Orders interact with the prevailing NBBO over time. Under current Rule 11.9(g)(4), a Non-Displayed Order that has been re-priced due to crossing a Protected Quotation of an away market may not be re-priced again unless it is again crossing a Protected Quotation. This restriction limits the ability of Non-Displayed Orders to respond dynamically to changing market conditions, potentially resulting in those orders being ranked at prices that no longer reflect optimal execution opportunities. By removing this limitation and permitting Non-Displayed Orders to receive a new timestamp and be ranked at the most aggressive permissible price following NBBO movement—subject to User instruction—the Exchange promotes just and equitable principles of trade and protects investors and the public interest by enabling more efficient price discovery and facilitating the execution

[31] *Supra* note 12.

of orders at prices that are consistent with current market conditions.

The Exchange further notes that the proposed Non-Displayed Order re-pricing behavior is consistent with the existing price sliding framework applicable to displayed orders and extends established principles to Non-Displayed Orders in a logical and equitable manner. Allowing Non-Displayed Orders to slide multiple times does not confer any unfair advantage on Users who employ such orders; rather, it ensures that Non-Displayed Orders are handled in a manner that is commensurate with the flexibility already available to displayed orders. The Exchange also notes that the proposed re-pricing behavior for Non-Displayed Orders will be available to all Users on an equal and non-discriminatory basis, consistent with the requirements of Section 6(b)(5) of the Act.

The Exchange further believes that permitting Non-Displayed Orders to re-price multiple times removes impediments to and perfects the mechanism of a free and open market and national market system by allowing Non-Displayed Orders to respond more dynamically to changing NBBO conditions in a manner that maximizes execution opportunities for Users.

Under the current framework, a Non-Displayed Order that has been re-priced once will not be re-priced again until it is again crossing a Protected Quotation of an away market. This limitation means that, even as market conditions change and the NBBO moves in a direction that would permit the Non-Displayed Order to be ranked at a more aggressive permissible price, the order remains statically ranked at a potentially suboptimal price level. The proposed amendment—which allows Non-Displayed Orders to re-price multiple times following NBBO movement subject to User instruction—removes this impediment by ensuring that Non-Displayed Orders are always ranked at the most aggressive permissible price consistent with the prevailing NBBO and the User's order instructions. This enhances the liquidity available on the BYX Book, promotes more efficient price discovery, and contributes to the overall quality of the national market system.

All aspects of the proposed rule change—including the ability to enter Non-Displayed ISOs, the codified rules governing the price level at which an ISO is considered available for other orders to be entered, and the expansion of Non-Displayed Order re-pricing to allow multiple re-pricings—are available to all Users of the Exchange on an equal and non-discriminatory basis. No User or class of Users is afforded preferential access to the proposed functionalities, and no User or class of Users is disadvantaged or excluded from utilizing the proposed order types and instructions.

Further, participation in any of the proposed functionalities is entirely voluntary. No User is required to enter ISOs as Non-Displayed Orders or to designate Non-Displayed Orders with the ability to re-price multiple times. The decision to utilize any of the proposed features is left entirely to the discretion of individual Users, who are in the best position to determine which order types and instructions are appropriate for their given trading strategies. Because the proposed functionalities are uniformly available to all Users on the same terms and conditions, and because participation is wholly optional, the proposed rule change does not permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange further notes that the proposed rule change does not impose any new requirements or obligations on Users who do not wish to utilize the proposed functionalities. Users who prefer to continue entering ISOs as displayed orders, or who prefer to continue submitting Non-Displayed Orders without a multiple re-price instruction, may do so without any change to their current order handling. The proposed rule change thus expands the range of choices available to all Users on an equal basis without restricting or altering the rights of any User who elects not to take advantage of the proposed features.

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 intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange's proposal to introduce a Non-Displayed ISO is a competitive response to a similar order type offered on at least one other exchange. As with other national securities exchanges, the Exchange must continually assess and improve its offerings to compete with other exchanges and market centers. The proposed rule change is indicative of this competition. The Exchange does not believe that its proposal to codify Rules 11.9(d)(1) through (3), which describe the price level at which the System will consider an ISO available for other orders to be entered, imposes any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. These rules are operational and clarifying in nature and are not being introduced for competitive purposes. Further, the Exchange does not believe that the proposal to amend Rule 11.9(g)(4) to permit Non-Displayed Orders to re-price multiple times based on User instruction imposes any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Permitting Non-Displayed Orders to respond dynamically to changing NBBO conditions—by re-pricing to the most aggressive permissible price following each relevant NBBO movement, subject to User instruction—improves the execution quality available on the Exchange for Non-Displayed Orders, making the Exchange a more attractive venue for market participants who rely upon such orders.

Additionally, the Exchange does not believe that the proposed rule changes would implicate any intramarket competitive concerns with respect to its Users. The proposed rule change to permit Users to enter an ISO with a non-displayed instruction and proposed rule change to enable Users to elect to permit Non-Displayed Orders to re-price multiple times are completely voluntary and available to all Users on an equal and non-discriminatory basis. Rather than impede competition, the proposed rule changes would provide an additional order type and order instruction for Users to facilitate their trading goals. Furthermore, the proposed rule change to codify Rules 11.9(d)(1)—(3) is not being introduced for competitive reasons and serves only to provide additional details about the price levels at which orders may be accepted and re-price.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBYX–2026–026 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBYX–2026–026. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBYX–2026–026 and should be submitted on or before July 14, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–12523 Filed 6–22–26; 8:45 am]

BILLING CODE 8011–01–P

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105722; File No. SR–DTC–2026–008]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Settlement Service Guide

June 17, 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 June 10, 2026, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(4) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change of DTC consists of amendments to its Settlement Service Guide (''Settlement Guide'')[5] to clarify the language and update the use around premium payment orders (''PPOs''), securities payment orders (''SPOs''), and settlement progress payments (''SPPs'') at DTC.[6]

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

DTC proposes to amend the Settlement Guide to clarify the language and update the use around PPOs, SPOs, and SPPs at DTC.

Background

The Settlement Guide describes how payments can be made through DTC using PPOs, SPOs, and SPPs.[7] However, DTC has determined that the current language in the Settlement Guide regarding PPOs, SPOs, and SPPs is unintentionally limiting and, generally, could be clearer. For example, in the *Payment Orders* section of the Settlement Guide,[8] the language explaining the use of PPOs and SPOs suggests that the described and bulleted use cases are the only use cases available to Participants, which is not the case as DTC is not in a position to know the exact reasons why Participants use those payment functions. Similarly, in the *Settlement Progress Payments* section of the Settlement Guide,[9] the language describing the use of SPPs does not allow for a Participant to withdraw SPP funds unless they were the Participant that submitted the SPP, notwithstanding a situation where the Participants and DTC would agree otherwise.

To address these points and to improve the overall clarity of the Settlement Guide around PPOs, SPOs, and SPPs, DTC is proposing several changes described below.

Proposed Changes Regarding Payment Orders

DTC proposes to update the *Payment Orders* section of the Settlement Guide to (i) more clearly describe what a payment order authorizes DTC to do, (ii) no longer suggest that the described use cases are the only use cases, and (iii) add a new sample use case.

Specifically, DTC would update the *About the Product* subsection to more simply explain that a Participant's payment order authorizes DTC to ''credit and debit corresponding payee

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4).

[5] *Available at www.dtcc.com/-/media/Files/Downloads/legal/service-guides/Settlement.pdf.* The Settlement Guide is a Procedure of DTC. Pursuant to the DTC Rules, By-laws, Organization Certificate (''DTC Rules''), the term ''Procedures'' means the Procedures, service guides, and regulations of DTC adopted pursuant to DTC Rule 27 (Procedures), as amended from time to time. DTC Rule 1 (Definitions; Governing Law), Section 1, *available at www.dtcc.com/-/media/Files/Downloads/legal/rules/dtc_rules.pdf.* DTC's Procedures are filed with the Commission. They are binding on DTC and each Participant in the same manner as they are bound by the DTC Rules. DTC Rule 27 (Procedures), *id.*

[6] Capitalized terms not defined herein shall have the meaning assigned to such terms in the Settlement Guide or DTC Rules, *id.*

[7] Settlement Guide, *id.* at 56–57, 66.

[8] *Id.* at 56–57.

[9] *Id.* at 66.

and payor accounts at DTC based on Participant instructions and satisfaction of all applicable DTC risk management controls before the order is processed.'' Although the existing language covers the same idea, the language is less clear and more process oriented.

In the *How the Product Works* subsection regarding PPOs and SPOs, DTC would add the words ''typically,'' ''sample,'' and ''could,'' to indicate that the described use cases are not the only use cases but, instead, are just that—typical and sample use cases. Additionally, DTC would add another sample SPO use case to the subsection.

The new use case would facilitate the capability of a Participant delivering securities for value (the payee Participant) to make an intraday withdrawal of funds that the Participant receiving the securities for value (the payor Participant) would choose to fund with an SPP, as separately agreed between the Participants and DTC. To effectuate this capability, (i) the payor Participant would direct an SPP to credit a DTC designated account (the conduit account) instead of its own settlement account; (ii) the payor Participant then would initiate an SPO to debit the conduit account and credit its settlement account the same value as the SPP (as though the payor Participant had directed the SPP to credit its own account); then (iii) the payee Participant would have DTC process an SPO to debit the payee Participant's settlement account and credit the conduit account an amount not to exceed the lesser of (A) the payee Participant's net credit balance and (B) the payor Participant's SPP; and finally (iv) the payee Participant would have DTC facilitate an SPP Returns/P&I Withdrawal Request to withdraw the corresponding SPP amount from the conduit account, as though it were withdrawing an SPP from its own account.

Proposed Changes Regarding Settlement Progress Payments

DTC proposes to update the *Settlement Progress Payments* section of the Settlement Guide to (i) clarify where SPPs are wired and the time by which SPPs need to be received; (ii) more clearly and simply state that the withdrawal of an SPP is subject to DTC risk management controls; (iii) note that Participants can designate a bank other than their DTC Settlement Bank for delivery of funds subject to a withdrawal request; and (iv) clarify the steps DTC would take to process at withdrawal request.

Specifically, DTC would update the *About the Product* subsection to (i) replace a reference to ''your DTC account'' with just ''DTC'' regarding where SPPs are wired because SPPs are not technically wired to the Participant's DTC account, as the language currently suggests; rather, they are wired to DTC (*i.e.,* a DTC account at the Federal Reserve) and then onward credited by DTC to the applicable account; and (ii) restructure the sentence about when SPPs should be received to clarify that they should be received prior to DTC's valued recycle cutoff time, which normally occurs at 3:10 p.m., and not that 3:10 p.m. itself is the deadline to avoid valued transactions dropping, as the language currently suggests.

DTC also would update the *Returning an SPP* subsection to (i) improve the language, generally; (ii) replace language about how SPPs submitted earlier in a day can be withdrawn down to a zero balance and, instead, simply state that the withdrawal of an SPP is subject to DTC's risk management controls, as such controls would not allow the return of funds to put the account in a debit balance, as already noted in the subsection; (iii) permit Participants to designate a bank other than their Settlement Bank to receive withdrawn funds, if agreed with DTC; and (iv) remove language about DTC debiting withdrawn SPP funds, as that would clearly be the case if DTC subsequently wires the funds, and, instead, more clearly explain how DTC reviews the withdrawal request against DTC's risk management controls and, if sufficient, will then wire the funds.

It should be noted that none of the proposed changes in this filing change or affect DTC's end-of-day settlement process or settlement finality, or bypass any DTC risk management controls, nor do the changes create any new obligations on Participants as nothing proposed is required. More specifically, with respect to the sample SPO use case to be added regarding earlier access to SPP funds, delivering or withdrawing SPPs does not change when or how DTC completes its end-of-day settlement process, nor does it change when a Participant's settlement obligations are considered complete (which, for value transactions, is not until the successful completion of DTC's end-of-day settlement). Rather, delivering and withdrawing SPPs simply changes the number of credits a Participant has for end-of-day settlement. If SPPs are delivered, then the applicable Participant will have more settlement credits. If they are withdrawn, then the applicable Participant will have less. Additionally, the described conduit account can never be in a debit balance as it is subject to DTC's risk management controls. Ultimately, the proposed use case is merely describing an operational process available through DTC, using existing payment order functions as agreed by the parties.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires, in part, that the DTC Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and, in general, to protect investors and the public interest.[10] DTC believes this proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.

As described above, DTC proposes to update the Settlement Guide to (i) clarify the use of PPOs and SPOs, generally; (ii) add another sample use case for SPOs (and SPPs); (iii) clarify the use and function around SPPs; and (iv) allow SPPs to be withdrawn intraday as agreed between the Participants and DTC. By improving the overall clarity of the language on the use and function of PPOs, SPOs, and SPPs, including the broader use cases of PPOs and SPOs, Participants will be better informed when using the payments for their securities transactions. Similarly, by adding a new use case and greater functionality, Participants will be better equipped to clear and settle their securities transactions at DTC, which not only benefits DTC and its Participants, but also the market more broadly. For these reasons, DTC believes that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act, cited above.

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the proposed rule change would impose a burden or otherwise have a significant impact on competition. Aside from simply clarifying the language in the Settlement Guide around PPOs, SPOs, and SPPs, the proposed changes would create greater flexibility for Participants, without creating any risk for DTC. As described above, the proposed changes do not affect DTC's end-of-day settlement process or settlement finality, or bypass any DTC risk management controls, nor do the changes create any new obligations on Participants as nothing proposed is required. Therefore, DTC believes the proposed rule change would not impose any burden on competition.

[10] 15 U.S.C. 78q–1(b)(3)(F).

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. If any written comments are received, DTC will amend this filing to publicly file such comments 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 SEC's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

DTC reserves the right to not respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and paragraph (f) of Rule 19b–4 thereunder.[12] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–DTC–2026–008 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–DTC–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/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of DTC and on DTCC's website (*https://www.dtcc.com/legal/sec-rule-filings*). Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR–DTC–2026–008 and should be submitted on or before July 14, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–12521 Filed 6–22–26; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105716; File No. SR–NasdaqTX–2026–030]

Self-Regulatory Organizations; Nasdaq Texas, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delete Obsolete Rule Text Regarding The Now-Completed Tick Size Pilot

June 17, 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 June 10, 2026, Nasdaq Texas, LLC (''Nasdaq Texas'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, 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 delete obsolete rule text regarding the now-completed Tick Size Pilot.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaqtx/rulefilings,* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 6, 2015, the Commission approved the National Market System Plan to Implement a Tick Size Pilot.[3] The Tick Size Pilot ran for two years, starting in October 2016.[4] In order to implement the Tick Size Pilot, the Exchange adopted Equity 4, Rule 4770, which is titled ''Compliance with Regulation NMS Plan to Implement a

[3] *See* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27514 (May 13, 2015) (''Order Approving the National Market System Plan To Implement a Tick Size Pilot Program by BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc., as Modified by the Commission, for a Two-Year Period'').

[4] *See https://www.sec.gov/data-research/tick-size-pilot-program.*

Tick Size Pilot.'' [5] Given that the Tick Size Pilot has long since concluded, the Exchange proposes to delete this obsolete rule text, and instead reserve Rule 4770.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to promote just and equitable principles of trade because removing obsolete rule text regarding the Tick Size Pilot will serve to avoid confusion and provide clarity to market participants. Additionally, it is necessary and consistent with the public interest and the protection of investors to make this technical correction to the Exchange's rulebook at Equity 4 in order to avoid confusing the investing public with obsolete rule text in Rule 4770.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issue; instead, its purpose is to ensure that the Exchange's rulebook remains accurate and up to date.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 Act [8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9]

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–NasdaqTX–2026–030 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NasdaqTX–2026–030. 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–NasdaqTX–2026–030 and should be submitted on or before July 14, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–12518 Filed 6–22–26; 8:45 am]

BILLING CODE 8011–01–P

[5] *See* Securities Exchange Act Release No. 77457 (Mar. 28, 2016), 81 FR 18913 (Apr. 1, 2016) (''Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Rule 4770 To Implement the Regulation NMS Plan To Implement a Tick Size Pilot Program'') (File No. SR–BX–2016–019). At the time of the Tick Size Pilot, the Exchange was known by the name ''Nasdaq BX.''

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 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.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105713; File No. SR–TXSE–2026–005]

Self-Regulatory Organizations; Texas Stock Exchange LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule To Adopt Rules Related to the Listing and Trading of Closed-End Funds on the Exchange

June 17, 2026.

On April 23, 2026, Texas Stock Exchange LLC (the ''Exchange'' or ''TXSE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt rules related to the listing and trading of closed-end funds on the Exchange. The proposed rule change was published for comment on May 8, 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 22, 2026.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 105367 (May 5, 2026), 91 FR 25400.

[4] 15 U.S.C. 78s(b)(2).

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 August 6, 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–TXSE–2026–005).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–12517 Filed 6–22–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36215; 812–16023

Alpha Summit Strategic Alternatives Fund and SteelPeak Wealth, LLC

June 18, 2026.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

Summary of Application: Applicants request an order to permit certain registered closed-end investment companies to issue multiple classes of shares and to impose early withdrawal charges and asset-based distribution and/or service fees.

Applicants: Alpha Summit Strategic Alternatives Fund and SteelPeak Wealth, LLC.

Filing Dates: The application was filed on April 30, 2026.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern time, on July 13, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Joshua B. Deringer, Esq., Joshua M. Lindauer, Esq., Faegre Drinker Biddle & Reath LLP, *joshua.deringer@faegredrinker.com* and *joshua.lindauer@faegredrinker.com,* with a copy to Airene Williamson, Esq., SteelPeak Wealth, LLC, 21650 Oxnard Street, Suite 2300, Woodland Hills, CA 91367.

FOR FURTHER INFORMATION CONTACT: Rachel Loko, Senior Special Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, dated April 30, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/search-filings.*

You may also call the SEC's Office of Investor Education and Advocacy at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–12610 Filed 6–22–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105712; File No. SR–OCC–2026–005]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change by The Options Clearing Corporation To Amend Its System for Theoretical Analysis and Numerical Simulation Methodology Description To Incorporate Options Implied Interest Rates as an Additional Source of Interest Rates Inputs for Constructing the Interest Rate Discount Curve Used in Options Pricing.

June 17, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 5, 2026, The Options Clearing Corporation (''OCC'') 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 primarily by OCC. 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

This proposed rule change would amend OCC's System for Theoretical Analysis and Numerical Simulation (''STANS'') Methodology Description [3] that would incorporate options implied interest rates as an additional source of interest rates inputs for constructing the interest rate discount curve (''discount curve'') used in options pricing.

OCC filed the proposed changes to the STANS Methodology Description as confidential Exhibit 5 to File No. SR–OCC–2026–005. Material proposed to be added to the STANS Methodology Description as currently in effect is underlined and material proposed to be deleted is marked in strikethrough text. All capitalized terms not defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[4]

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 91079 (Feb. 8, 2021), 86 FR 9410 (Feb. 12, 2021) (File No. SR–OCC–2020–016).

[4] OCC's By-Laws and Rules can be found on OCC's public website: *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC is the sole clearing agency for standardized equity options listed on national securities exchanges registered with the Commission. OCC also clears certain stock loan and futures transactions. In its role as a clearing agency, OCC guarantees the performance of its Clearing Members for all transactions cleared by OCC by becoming the buyer to every seller and the seller to every buyer. These clearing activities expose OCC to financial risks if a Clearing Member fails to fulfill its obligations to OCC. OCC manages these financial risks through various safeguards, including the collection of sufficient margin collateral from Clearing Members designed to cover the market risk associated with a Clearing Member's positions during the period that OCC would take to liquidate those positions. OCC employs its proprietary system, STANS, to calculate each Clearing Member's margin requirements.[5]

In the STANS methodology, the discount curve is a critical input for OCC's pricing models. OCC constructs the discount curve using industry standard benchmark rates and instruments. Currently, OCC uses only the Secured Overnight Financing Rate (''SOFR'') based discount curve.[6] However, OCC has observed that the SOFR-based discount curve may not always align with the rates implied by the options market. Market participants have reported discrepancies in OCC's in-the-money options marks for long-dated SPX option expiries,[7] with analysis showing that the SOFR rates used by OCC are below the options implied interest rates.

To address this issue, OCC proposes to amend its STANS Methodology Description to incorporate box rates implied by the SPX options market as an additional input to the discount curve construction. These market-derived rates would supplement OCC's current methodology, allowing OCC to incorporate box rates into its theoretical mark calculations, which would increase smoothing output adherence to market quotations.[8] The proposed change is expected to improve pricing accuracy for deep-in-the-money options with medium- to long-term expirations, resulting in more accurate margin calculations that better reflect the risk of Clearing Member portfolios.

1. Purpose

Background

STANS is OCC's proprietary risk management system for calculating Clearing Member margin requirements. The STANS methodology utilizes large-scale Monte Carlo simulations to forecast price and volatility movements in determining a Clearing Member's margin requirement.[9] OCC's pricing model within its STANS methodology uses the discount curve, along with dividends and implied volatility to specify underlying price dynamics.[10] OCC uses this data, along with Exchange-listed option price data, to calibrate the implied borrow cost and implied volatility parameters used in its option pricing models.[11]

In general, the discount curve is used both to project expected future cash flows for option derivatives and to discount them back to present value. OCC currently constructs this curve using instruments referencing SOFR, having previously transitioned from the London Interbank Offered Rate (''LIBOR'') in 2021.[12] This framework was established through prior rule filings.[13] However, OCC has observed that the SOFR-based discount curve may not always align with the rates implied by the options market. This misalignment can result in pricing discrepancies, particularly for deep-in-the-money options. To address these pricing discrepancies, the proposed change would amend the framework to incorporate interest rates implied by market quotes of options and other derivatives into the construction of discount curve.

Market participants have reported discrepancies between OCC's end-of-day option marks and observed market prices for deep-in-the-money SPX options with long-dated expiries. This issue affects all option types (*i.e.,* Call, Put, Flex, American, etc.) and is more pronounced for long-dated options (due to larger discount factor impact) and deep in-the-money options (due to larger moneyness impact). Analysis shows that the SOFR rate used by OCC is generally at a discount compared to the rate implied from put-call parity *i.e.,* box rates. OCC's analysis of historical data shows that box rates generally exceed SOFR-based rates by approximately 20–40 basis points across tenors, with varied spreads observed at shorter tenors. [14]

OCC proposes to amend the STANS Methodology Description to incorporate interest rates implied by the SPX options market as inputs for constructing the discount curve. Box rates are interest rates derived from box spread trades. A box spread is a delta-neutral [15] options strategy that involves simultaneously holding a bull call spread [16] and a bear put spread [17] with

[5] An overview of the STANS methodology is on OCC's public website: *https://www.theocc.com/Risk-Management/Margin-Methodology.* OCC makes the confidential STANS Methodology Description available to Clearing Members who execute a non-disclosure agreement.

[6] The Secured Overnight Financing Rate is a broad measure of the cost of borrowing cash overnight collateralized by Treasury securities. OCC transitioned its discount curve to SOFR-based instruments on October 24, 2021. *See infra* note 11.

[7] For purposes of this filing OCC classifies option expiration tenors as follows: ''short-term'' as less than or equal to 30 days; ''medium-term'' as greater than 30 days and up to 365 days; and ''long-term'' as greater than 365 days. These classifications are adopted solely to facilitate review and form no part of the proposed methodology.

[8] Smoothing refers to OCC's Implied Volatility Smoothing algorithm, which generates implied volatilities for all listed and FLEX options. The discount curve serves as an input to this algorithm and is used in computing forward prices and option valuations throughout the smoothing process.

[9] *See* OCC Rule 601.

[10] *See* Exchange Act Release No. 90763 (Dec. 21, 2020), 85 FR 85788, 85798 (Dec. 29, 2020) (SR–OCC–2020–016) (describing ''model utilities'' that are applied at various points in the STANS methodology).

[11] *See* Exchange Act Release No. 93371 (Oct. 18, 2021), 86 FR 58704, 58705 (Oct. 22, 2021) (SR–OCC–2021–011) (transitioning OCC's discount curve methodology to SOFR-based rates).

[12] *Id.*

[13] *See supra* notes 10 and 11.

[14] OCC has filed supporting data and analysis comparing SOFR and box rates as confidential Exhibit 3A to File No. SR–OCC–2026–005.

[15] Delta is a measurement of how sensitive the price of an option (or an option's position) is to changes in the price of the underlying asset. ''Delta-neutral,'' in this context, means that the profit or loss for the strategy does not depend on the underlying asset's price, but rather on the relationship between the options' prices and the interest rate.

[16] A bull call spread is an options strategy that involves simultaneously buying a call option at a lower strike price and selling a call option at a higher strike price, with both options having the same expiration date.

[17] A bear put spread is an options strategy that involves simultaneously buying a put option at a higher strike price and selling a put option at a lower strike price, with both options having the same expiration. When structured correctly with a bull call spread as part of a box spread, the net directional exposure to the underlying asset is offset

the same strike prices and expiration dates, which effectively creates a synthetic loan with an implied interest rate. OCC would estimate such implied interest rates by first sourcing market quotes for SPX European-style options and calculating their mid-prices from the average of the bid and ask. Using these mid-prices, OCC would then apply a proprietary regression technique to derive box rates. The use of option mid-prices produces more stable and reliable results than working directly with bid and ask spreads.[18] Since SPX options typically extend to only about five years out, OCC would extend the term structure of the discount curve by applying a basis adjustment to longer term SOFR swap rates to create a curve that extends to approximately 50 years.[19] This approach would capture the market's cost of capital for equity options, which OCC has observed would typically run 20 to 40 basis points higher than SOFR-based rates.[20] This additional approach would supplement OCC's current methodology, which uses SOFR rates as the primary input for discount curve modeling.

Proposed Change

OCC proposes to revise the data capture subsection of Section 3.2 of the STANS Methodology Description, which currently provides for three legacy groups of input data available for constructing the U.S. dollar discount curve: (1) cash rates, such as SOFR, (2) contiguous interest rate futures, and (3) interest rate swaps. Not all of these sources are used under either the current or the proposed approach. Specifically, OCC proposes to expand the input data sources by adding a fourth input source to this list: interest rates over the short and medium term implied by market quotes for options and other derivatives. In practice, the update would allow OCC to use box rates derived from market quotes of standard SPX options, where available. Beyond the longest available expiration of standard SPX options, the box rates are extrapolated using adjusted SOFR swap rates. The update includes a description of the process for extending the curve beyond available box rates to maintain continuity across the entire term structure. Additionally, OCC proposes to replace specific maturity details with generalized timeframes. For example, cash rates would now span from ''overnight (*i.e.,* one day) to a few months'' rather than listing specific tenors, and the term ''contiguous'' would be removed from the interest rate futures discussion as it is no longer applicable to the proposed approach. The last sentence on seamless selection changes would be removed entirely. [21]

OCC also proposes to implement technical clarifying and conforming changes to Section 3.2 under the data capture and the bootstrapping sections. These include revising terminology such as ''yield curve'' to ''interest rate discount curve,'' providing additional clarifying context where appropriate, and removing unnecessary references to notation used in the bootstrapping algorithm. OCC proposes to also eliminate the cash instruments section in its entirety, which refers to certain legacy instrument-specific details related to the construction of the interest rate curve prior to the LIBOR to SOFR transition. Finally, OCC proposes non-substantive formatting enhancements, grammatical revisions, and other minor updates throughout the methodology document.

OCC has observed that when box rates and SOFR rates are compared, the discount curve derived from utilizing box rates is generally 20–40 basis points higher than the curve generated using only SOFR rates. The impact of these changes is more observable on deep-in-the-money options, with some impact on the remainder of the option chain. At-the-money options and out-of-the-money options are relatively less affected, as the calibration of implied borrow costs largely absorbs the interest rate differences and it dampens the impact on the calculated implied forwards.

OCC's impact analysis indicates that the proposed rule change would produce a modest reduction in the overall margin.[22] For instance, a single-day impact assessment for a typical business date in November 2025 indicates a modest total margin reduction of approximately $141 million, or approximately 0.27% in relative terms. This reduction is attributable to the correction of mispricing in the current SOFR-based discount curve. While the aggregate impact is modest, individual portfolios may experience varying effects depending on their composition. Portfolios with a greater concentration of deep-in-the-money options, where the impact of discount rates is higher, are likely to see a more pronounced margin impact. In all cases, these adjustments are a consequence of correcting existing mispricing in option prices thereby aligning margin requirements more closely with actual risk.

Implementation Timeframe

OCC expects to implement the proposed changes no later than (180) days from the date that OCC receives all necessary regulatory approvals for the filing. OCC will announce the implementation date of the proposed changes by posting an Information Memorandum on its public website at least two (2) weeks prior to implementation.

2. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A of the Exchange Act [23] and the rules thereunder applicable to OCC. Section 17A(b)(3)(F) of the Act [24] requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of derivative agreements, contracts, and transactions and to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible. The proposed rule change would enhance OCC's ability to accurately price options, particularly deep-in-the-money options with longer expirations, by providing an enhanced means of constructing the discount curve that better aligns with market practices. This enhancement would align the discount curve with the rates implied by the options market, removing a systemic source of pricing discrepancies particularly for deep-in-the-money option positions thus improving pricing accuracy of OCC's margin calculations, which OCC uses to manage the risk of a Clearing Member default. More accurate margin calculations support OCC's ability to safeguard securities and funds in its custody or control by ensuring that it collects margin that appropriately reflects the risk of Clearing Member

because the long call and short put have positive delta, while the short call and long put have negative delta.

[18] The use of option mid prices in the estimation of box rates is consistent with common market practice, as midpoint prices provide a neutral estimate of prevailing market value by mitigating the effect of bid-ask spread variability.

[19] The basis adjustment would be calculated as the observed spread between box rates and SOFR rates at the longest available box rate expiry, applied as a constant adjustment to SOFR rates beyond that point.

[20] OCC has filed amendments to its technical document related to the interest rate curve as confidential Exhibit 3B to File No. SR–OCC–2026–005.

[21] OCC also proposes to remove the sentence stating that the discussion of the interest rate curve covers other currencies but details will vary, as this statement is no longer applicable.

[22] OCC has filed the underlying data supporting the impact analysis as confidential Exhibit 3C to File No. SR–OCC–2026–005.

[23] 15 U.S.C. 78q–1.

[24] 15 U.S.C. 78q–1(b)(3)(F).

portfolios, consistent with Section 17A(b)(3)(F) of the Act.[25]

Exchange Act Rule 17Ad–22(e)(6) further requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, among other things: (1) considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio and market, and (2) calculates margin sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default.[26] The proposed rule change would result in more accurate pricing for options, particularly deep-in-the-money options with longer expirations, which would enhance OCC's ability to produce margin levels commensurate with the risks and particular attributes of these products. By incorporating box rates implied by the SPX options market into its discount curve construction, OCC would better align its margin methodology with market practices and improve its ability to calculate margin sufficiently to cover its potential future exposure to participants. Accordingly, OCC believes the proposed rule change is consistent with the requirements of Exchange Act Rule 17Ad–22(e)(6).[27]

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act[28] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. OCC does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. While the proposed change may result in modest margin adjustments for individual portfolios and accounts, particularly those with concentrated positions in deep-in-the-money options, these effects flow directly from correcting a known pricing issue with OCC's current discount curve rather than from any competitive burden. The proposed rule change would improve the accuracy of OCC's pricing and margin calculations, which would produce margin requirements more closely aligned with the risk presented by Clearing Member portfolios and accounts. Moreover, the proposed rule change would be applied uniformly across all Clearing Members, and would not unfairly inhibit access to OCC's services. Accordingly, OCC believes that the proposed rule change would not impose any burden or impact on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been 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.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.[29]

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–OCC–2026–005 on the subject line.

Paper Comments

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–OCC–2026–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of such filings will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

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–OCC–2026–005 and should be submitted on or before July 14, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–12525 Filed 6–22–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105711; File No. SR–CboeBZX–2026–053]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend Rule 11.9(d) To Permit an Intermarket Sweep Order (''ISO'') To Be Entered as a Non-Displayed Order and To Establish the Price Level at Which the System Will Consider an ISO Available for Other Orders To Be Entered

June 17, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 5, 2026, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to

[25] *Id.*

[26] 17 CFR 240.17Ad–22(e)(6)(i), (iii).

[27] 17 CFR 240.17Ad–22(e)(6).

[28] 15 U.S.C. 78q–1(b)(3)(I).

[29] Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation 40.6.

[30] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') proposes to amend Rule 11.9(d) to: i) permit an Intermarket Sweep Order to be entered as a Non-Displayed Order and ii) to establish the price level at which the System will consider an Intermarket Sweep Order available for other orders to be entered. The Exchange also proposes to amend Rule 11.9(g)(4) to permit Non-Displayed Orders to re-price to more aggressive prices. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/equities/regulation/rule_filings/bzx/*), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

As part of its suite of order types, BZX currently offers Users the ability to enter Intermarket Sweep Orders (''ISOs''), which are limit orders for an NMS stock that meet the following requirements: (i) when routed to a trading center, the limit order is identified as an ISO; (ii) simultaneously with the routing of the limit order identified as an ISO, one or more additional limit orders, as necessary, are routed to execute against the full displayed size of any protected bid, in the case of a limit order to sell, or the full displayed size of any protected offer, in the case of a limit order to buy, for the NMS stock with a price that is superior to the limit price of the limit order as identified as an ISO (and these additional routed orders also must be marked as ISOs).[3] Currently, the Exchange does not specify that ISOs may be entered as Non-Displayed Orders.[4] Based on User[5] feedback, the Exchange proposes to amend Rule 11.9(d) to permit ISOs to be entered as Non-Displayed Orders (''Non-Displayed ISOs''). In addition to the proposed introduction of Non-Displayed ISOs, the Exchange also proposes to amend Rule 11.9(d) to establish the price level at which the System[6] will consider an ISO available for other orders to be entered. Lastly, in conjunction with the proposed amendment to Rule 11.9(d) to allow for Non-Displayed ISOs, the Exchange also proposes to amend Rule 11.9(g)(4) to permit Non-Displayed Orders to re-price to more aggressive prices.

Intermarket Sweep Orders

The Exchange currently permits Users to submit ISOs pursuant to Rule 11.9(d). In order to be eligible for treatment as an ISO, the limit order must be marked ISO and the User entering the order must simultaneously route one or more additional limit orders marked ''ISO,'' as necessary, to away markets to execute against the full displayed size of any Protected Quotation[7] for the security with a price that is superior to the limit price of the ISO entered in the System.[8] Such orders, if they meet the requirements of the foregoing sentence, may be executed at one or multiple price levels in the system without regard to Protected Quotations at away markets consistent with Regulation NMS (*i.e.,* may trade through such quotations).[9] The Exchange relies on the marking of an order as an ISO order when handling such order, and thus, it is the entering Member's responsibility, not the Exchange's responsibility, to comply with the requirements of Regulation NMS as it relates to ISOs.[10] ISOs are not eligible for routing pursuant to Rule 11.13(b).[11]

The Exchange now proposes to add a sentence to Rule 11.9(d) that states that an ISO may be entered as a displayed order or as a Non-Displayed Order (a ''Non-Displayed ISO''). The Exchange notes that at least one other exchange[12] offers the ability to submit ISOs containing a Non-Displayed instruction and does not believe that its proposal introduces a novel order type.

In addition to permitting an ISO to be entered as a Non-Displayed Order, the Exchange also proposes to introduce Rules 11.9(d)(1)—(3) that establish the price level at which the System will consider an ISO available for other orders to be entered.

Proposed Rule 11.9(d)(1) would provide that upon receipt of an ISO during Regular Trading Hours,[13] the System will consider the limit price of the ISO to be available for new orders to be entered at that price level. Resting orders would re-price to the limit price of the ISO based on User instruction, unless the ISO is not itself accepted at that price level (for example, a Post-Only Order[14] that was cancelled to avoid executing against an Order on the BZX Book[15]) or the ISO is a Non-Displayed Order.

Proposed Rule 11.9(d)(2) would provide that upon receipt of an ISO during the Early Trading Session,[16] Pre-Opening Session,[17] or After Hours Trading Session,[18] the System will not consider the limit price of an ISO to be available for new orders to be entered at that price, and resting orders will not re-price based on the limit price of the ISO.

Proposed Rule 11.9(d)(3) would provide that notwithstanding subparagraphs (1) and (2), the System will consider the limit price of an ISO entered during Regular Trading Hours to remain available for new orders to be

[3] *See* Regulation NMS Rule 600(a)(47).

[4] *See* Exchange Rule 11.9(c)(11). A ''Non-Displayed Order'' is a market or limit order that is not displayed on the Exchange.

[5] *See* Exchange Rule 1.5(cc). The term ''User'' shall mean any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.

[6] *See* Exchange Rule 1.5(aa). The term ''System'' shall mean the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.

[7] *See* Rule 1.5(t). The term ''Protected Quotation'' shall mean a quotation that is a Protected Bid or Protected Offer.

[8] *See* Exchange Rule 11.9(d).

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] *See, e.g.,* Nasdaq Equity 4, Rule 4702(b)(3)(C) and Nasdaq Equity 4, Rule 4703(j).

[13] *See* Rule 1.5(w). The term ''Regular Trading Hours'' means the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[14] *See* Rule 11.9(c)(6). A ''BZX Post Only Order'' is an order that is to be ranked and executed on the Exchange pursuant to Rule 11.12 and Rule 11.13(a)(4) or cancelled, as appropriate, without routing away to another market center except that the order will not remove liquidity from the BZX Book, other than as described in Rule 11.9(c)(6).

[15] *See* Rule 1.5(e). The term ''BZX Book'' shall mean the System's electronic file of orders.

[16] *See* Rule 1.5(ff). The term ''Early Trading Session'' shall mean the time between 4:00 a.m. and 8:00 a.m. Eastern Time.

[17] *See* Rule 1.5(r). The term ''Pre-Opening Session'' shall mean the time between 8:00 a.m. and 9:30 a.m. Eastern Time.

[18] *See* Rule 1.5(c). The term ''After Hours Trading Session'' shall mean the time between 4:00 p.m. and 8:00 p.m. Eastern Time.

entered or resting orders to re-price based on User instruction if such order remains eligible for execution during the After Hours Trading Session. The System will not consider the limit price of an ISO entered during the Early Trading Session or Pre-Opening Session to be available for new orders to be entered or resting orders to re-price based on User instruction if such order remains eligible for execution during Regular Trading Hours or during the After Hours Trading Session. The Exchange has provided examples below to demonstrate how proposed Rules 11.9(d)(1)—(3) would operate.

Example 1 [19]

Upon receipt of an ISO during Regular Trading Hours, the System will consider the limit price of an ISO to be available for new orders to be entered at that price level and resting orders would re-price to the limit price of the ISO.[20]

NBBO: $10.00 × $10.05 (assume BZX not on the NBO).

Order 1: Buy 1,000 at $10.06 —Displayed, price slide. Order 1 is posted to the BZX Book ranked at the locking price of $10.05 and displayed at a price of $10.04 pursuant to Rule 11.9(g)(1)(A).

Order 2: Buy 100 at $10.05—Displayed, Day, ISO. Order 2 is posted to the BZX Book and displayed at a price of $10.05 as there is no contra-side liquidity on the BZX Book to execute against upon entry.

Result: Upon the receipt of Order 2, pursuant to Rule 11.9(g)(1)(A) and User instruction, Order 1 is displayed and ranked at a price of $10.05. Order 1 is permitted to join the price level of the ISO pursuant to proposed Rule 11.9(d)(1) as the User submitting the ISO is required to simultaneously route one or more additional limit orders marked ISO, as necessary, to away markets to execute against the full displayed size of any locked or crossed Protected Quotation.[21]

Example 2 [22]

Upon receipt of an ISO during the Early Trading Session, Pre-Opening Session, or After Hours Trading Session, the System will not consider the limit price of an ISO to be available for other orders to be entered at that price, and resting orders will not re-price based on the limit price of the ISO.[23]

NBBO: $10.00 × $10.05 (assume BZX not on the NBO).

Order 1: Buy 10,000 at $10.06—Displayed; Multiple Price Slide. Order 1 is posted to the BZX Book ranked at the locking price of $10.05 and displayed at a price of $10.04, pursuant to Rule 11.9(g)(1)(A).

Order 2: Buy 100 @$10.06—Displayed, Day, ISO.

Result: Upon entry, Order 2 is posted to the BZX Book as there is no contra-side liquidity on the BZX Book to execute against. Order 2 is ranked and displayed at $10.06 pursuant to Rule 11.9(d). Pursuant to proposed Rule 11.9(g)(1)(A), Order 1 remains ranked at the locking price of $10.05 and displayed at a price of $10.04 upon receipt of Order 2.[24] As Rule 611 of Regulation NMS does not apply outside of Regular Trading Hours, Order 2 is not required to simultaneously route additional ISOs, as necessary, to execute against the full displayed size of any protected offer. Therefore, the Exchange believes it would be inappropriate to use the limit price of Order 2 as a reference point for the re-pricing of Order 1.

Example 3

Upon receipt of an ISO during the Early Trading Session, Pre-Opening Session, or After Hours Trading Session, the System will not consider the limit price of an ISO to be available for other orders to be entered at that price, and resting orders will not re-price based on the limit price of the ISO.[25]

NBBO: $10.00 × $10.05 (assume BZX not on the NBO).

Order 1: Buy 10,000 at $10.06—Displayed; Multiple Price Slide. Order 1 is posted to the BZX Book ranked at the locking price of $10.05 and displayed at a price of $10.04, pursuant to Rule 11.9(g)(1)(A).

Order 2: Buy 100 @$10.06—Non-Displayed, Day, ISO.

Result: Upon entry, Order 2 is posted to the BZX Book as there is no contra-side liquidity on the BZX Book to execute against. Order 2 is ranked at the locking price of $10.05 pursuant to proposed Rule 11.9(g)(4). Order 1 remains ranked at the locking price of $10.05 and displayed at a price of $10.04 upon receipt of Order 2 pursuant to Rule 11.9(g)(1)(A).

Example 4

The System will consider the limit price of an ISO entered during Regular Trading Hours to remain available for new orders to be entered or resting orders to re-price based on User instruction if such order remains eligible for execution during the After Hours Trading Session.

NBBO: $10.00 × $10.05 (assume BZX not on the NBO).

Order 1: Buy 100 at $10.06—Displayed, Day, ISO. Order 1 is ranked and displayed at $10.06 pursuant to Rule 11.9(d) as there is no contra-side liquidity on the BZX Book to execute against upon entry. Order 1 is entered during Regular Trading Hours and persists in to the After Hours Trading Session.

Order 2: Buy 10,000 at $10.06—Displayed, Multiple Price Slide. Order 2 is entered during the After Hours Trading Session.

Result: Order 2 is posted and displayed at $10.06 because Order 1 established the $10.06 price level during Regular Trading Hours pursuant to proposed Rule 11.9(d)(3).

Non-Displayed Order Sliding

In addition to the proposed changes to permit an ISO to be entered as a Non-Displayed Order, the Exchange also proposes to amend Rule 11.9(g)(4) (''Non-Displayed Order Sliding'') to permit Users to elect multiple price sliding for Non-Displayed Orders. Currently, a Non-Displayed Order containing a price slide instruction that crosses the Protected Quotation of an away market will receive a new timestamp and will be ranked by the System at the locking price.[26] Once a Non-Displayed Order has been re-priced due to crossing the Protected Quotation of an away market, the Non-Displayed Order will not be re-priced by the System unless it is again crossing a Protected Quotation of an away market.[27] The Exchange now proposes to amend Rule 11.9(g)(4) to allow a User to elect to have a Non-Displayed Order re-price each time the NBBO changes that would permit the order to be ranked at a more aggressive price without crossing a Protected Quotation of an external market and to clarify that a Non-Displayed Order will retain its original limit price irrespective of the price at which such Non-Displayed Order is ranked.

The Exchange proposes to delete the following language in Rule 11.9(g)(4): ''Similarly, in the event the NBBO changes such that a Non-Displayed Order subject to display-price sliding or Price Adjust would cross a Protected Quotation of an external market, the order will receive a new timestamp, and will be ranked by the System at the locking price. In the event a Non-

[19] For this example, assume that all orders are sent during Regular Trading Hours.

[20] *See* proposed Rule 11.9(d)(1).

[21] *See* Rule 11.20(d)(3).

[22] For this example, assume that all orders are sent during the Early Trading Session or Pre-Opening Session.

[23] *See* proposed Rule 11.9(d)(2).

[24] Under current Exchange Rules, Order 1 would be re-priced and displayed at $10.06 pursuant to Rule 11.9(g)(1)(C) as Rule 610(d) of Regulation NMS is not violated during the Early Trading Session or Pre-Opening Session.

[25] *See* proposed Rule 11.9(d)(2).

[26] *See* Rule 11.9(g)(4).

[27] *Id.*

Displayed Order has been re-priced by the System pursuant to this sub-paragraph (4), such Non-Displayed order is not re-priced by the System unless it is again crossing a Protected Quotations (*sic*) of an external market.''

The proposed revised language of Rule 11.9(g)(4) is as follows:

In order to avoid potentially trading through Protected Quotations of external markets, the Exchange offers price sliding for Non-Displayed Orders that upon entry cross a Protected Quotation of an external market that is functionally equivalent to the handling of displayable orders pursuant to the display-price sliding process except that such orders will not have a displayed price. Non-Displayed Orders that upon entry would cross the Protected Quotation of an external market and are subject to display-price sliding or Price Adjust are ranked at the locking price on entry. By default, a Non-Displayed Order that has been re-priced pursuant to this sub-paragraph (4) shall not be re-priced again unless the order's ranked price is again crossing the Protected Quotation of an external market. Notwithstanding the foregoing, a User may elect to have the System re-rank and re-price a Non-Displayed Order each time the NBBO changes that would permit the order to be ranked at a more aggressive price without crossing a Protected Quotation of an external market, in which case the order shall be re-ranked at the most aggressive permissible price. Each time a Non-Displayed Order is re-priced, the order shall receive a new timestamp. A Non-Displayed Order will retain its original limit price irrespective of the price at which such order is ranked.

The Exchange has provided examples below of how a Non-Displayed Order subject to the proposed price sliding text would behave.

Example 5

The System will slide a Non-Displayed Order pursuant to proposed Rule 11.9(g)(4) based on User instruction.

NBBO: $10.00 × $10.05 (assume BZX not at NBO)

Order 1: Sell 100 at $10.06—Non-Displayed.

Order 2: Sell 100 at $10.07—Non-Displayed.

Order 3: Buy 600 at $10.07—Non-Displayed, Day, Multiple Price Slide. Pursuant to proposed Rule 11.9(g)(4), Order 3's shares are posted to the BZX Book and ranked at a price of $10.05. Order 3's shares are not displayed.

NBBO Updated: $10.03 × $10.07

Result: When Order 3 arrives, its limit price of $10.07 crosses the Protected Quotation (offer at $10.05). Pursuant to current and proposed Rule 11.9(g)(4), Order 3 is therefore ranked at the locking price ($10.05) upon entry. After the change to the NBBO, the non-displayed nature of Order 3 allows it to lock the NBBO. Since Order 3 contains an instruction to slide multiple times, Order 3 is slid to a ranked price of $10.07 pursuant to proposed Rule 11.9(g)(4). Order 3 then trades 100 shares at $10.06 against Order 1 and 100 shares at $10.07 against Order 2. Order 3's remaining 400 shares are then posted to the BZX Book at a price of $10.07 pursuant to proposed Rule 11.9(g)(4).

Example 6

Non-Displayed Orders containing an ISO instruction will be permitted to execute up to their limit prices upon entry pursuant to proposed Rule 11.9(d) and then will re-price based on User instruction pursuant to proposed Rule 11.9(g)(4).

NBBO: $10.00 × $10.05 (assume BZX not at NBO)

Order 1: Sell 100 at $10.06—Displayed.

Order 2: Buy 600 at $10.07—Non-Displayed, Day, ISO, Multiple Price Slide.

Result: Order 2 trades 100 shares with Order 1 at a price of $10.06 pursuant to proposed Rule 11.9(d), which permits an ISO to be entered with a non-displayed instruction. Order 2's remaining 500 shares post to the BZX Book at the locking price of $10.05 pursuant to proposed Rule 11.9(g)(4). Assume the NBBO then updates to $10.03 × $10.07. Since Order 2 contained an instruction to re-price to more aggressive prices, Order 2 is then re-priced to the locking price of $10.07 pursuant to proposed Rule 11.9(g)(4).

The Exchange believes that the proposed changes, when viewed individually and holistically, serve to create a more valuable trading experience for market participants. In particular, the proposal expands the utility of an existing, well-established order type in a manner that is consistent with the regulatory framework underlying ISOs while also providing clear, transparent, and predictable rules governing the interaction between ISOs, other resting orders on the BZX Book, and new orders arriving to the BZX Book. Additionally, the Exchange's proposal to permit Non-Displayed Orders to re-price to more aggressive prices complements the Exchange's proposal to introduce Non-Displayed ISOs as it allows for Users to submit ISOs with a non-displayed instruction and allow such orders to react to changing market conditions should those orders post to the BZX Book. Together, the proposed rule changes seek to provide additional options for market participants seeking to employ non-displayed trading strategies on the Exchange and provide additional clarity regarding the interaction between ISOs, resting orders on the BZX Book, and new orders arriving to the BZX Book.

Implementation

The Exchange proposes to implement the proposed functionality during the second half of 2026 and will announce the date via Trade Desk Notice.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[28] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[29] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[30] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposal expands the utility of an existing, well-established order type in a manner that is consistent with the regulatory framework underlying ISOs. Under Regulation NMS, a User submitting an ISO represents that it has simultaneously routed one or more additional limit orders to execute against the full displayed size of any Protected Quotation at prices superior to the limit price of the ISO. The Exchange's reliance on that representation is longstanding and well-understood. Permitting Users to enter ISOs with a non-displayed instruction does not alter or undermine that representation—Users remain fully responsible for their compliance with the requirements of Regulation NMS relating to ISOs. Rather, the proposal

[28] 15 U.S.C. 78f(b).

[29] 15 U.S.C. 78f(b)(5).

[30] *Id.*

simply affords Users greater flexibility in the manner in which they choose to interact with the marketplace, consistent with the spirit and requirements of fair and orderly trading.

Additionally, a wide variety of trading strategies depend upon the ability to manage order flow in a non-displayed capacity. Many institutional and professional market participants have legitimate, lawful reasons to conceal the full extent of their trading interest, including to minimize market impact and to facilitate the efficient execution of large orders over time. The Exchange's current framework, which does not permit ISOs to be entered as Non-Displayed Orders, unnecessarily constrains Users who wish to employ such strategies. By removing this limitation, the Exchange promotes just and equitable principles of trade by enabling Users to more effectively implement their trading strategies across market centers in a manner that is consistent with applicable law.

The introduction of Non-Displayed ISOs directly enables Users to implement cross-market trading strategies that require both the Regulation NMS ISO framework and the ability to post residual order interest in a non-displayed capacity. Under the current rule framework, Users who wish to employ such strategies are unable to do so on the Exchange and may be required to route order flow to competing venues that already offer comparable functionality. The inability to offer a Non-Displayed ISO order type thus creates a structural impediment—both to Users seeking to execute their strategies efficiently and to the Exchange's ability to compete effectively within the national market system. The Exchange notes that at least one other national securities exchange currently offers the ability to submit ISOs with a non-displayed instruction.[31] The Exchange's proposal to introduce Non-Displayed ISOs is therefore a competitive response that is consistent with the architecture of the national market system and does not introduce a novel order type.

The introduction of Non-Displayed ISOs is designed to protect investors and the public interest because the proposal enhances the ability of institutional and professional investors to efficiently execute large orders across multiple market centers without unduly signaling their trading interest to the market. The ability to manage market impact is an important dimension of best execution for investors with substantial order flow, and the Exchange's proposal promotes investor protection by affording these participants a tool that is already available on competing venues, thereby providing an equal opportunity for Users who trade on the Exchange to use a comparable order type.

The Exchange believes that its proposal to introduce Rules 11.9(d)(1) through (3), which describe the price level at which the System will consider an ISO available for other orders to be entered, similarly promotes just and equitable principles of trade and protects investors and the public interest by providing Users with clear, transparent, and predictable rules governing the interaction between ISOs, other resting orders on the BZX Book, and new orders arriving to the BZX Book.

Specifically, the delineation between Regular Trading Hours (during which the limit price of a displayed ISO will be considered available for both new orders to join and for resting orders to re-price based on User instruction) and off-hours sessions (during which the limit price of an ISO will not be considered available for new orders to join or for such re-pricing) reflects the materially different regulatory and market structure dynamics that apply during those sessions. During Regular Trading Hours, a User submitting a displayed ISO has represented compliance with Regulation NMS trade-through obligations with respect to Protected Quotations, thereby establishing a reliable price level to which resting orders may join. Outside of Regular Trading Hours, the absence of this same regulatory framework makes it inappropriate to use the ISO limit price as a reference point for resting order re-pricing. This distinction promotes just and equitable principles of trade by ensuring that order re-pricing behavior is tied to well-defined, appropriate, and lawful market conditions. By contrast, the Exchange's proposal that a Non-Displayed ISO will not trigger re-pricing of resting orders further promotes just and equitable principles of trade and protects investors and the public interest, as it would be inappropriate for a price level that is not publicly disseminated to serve as the basis for resting orders to obtain a new, more aggressive ranked price.

The Exchange further believes that its proposal to codify Rules 11.9(d)(1) through (3) removes impediments to and perfects the mechanism of a free and open market and national market system by providing explicit, rule-based transparency around the operation of ISOs on the BZX Book. Prior to this proposal, the Exchange's rules did not expressly address the price level at which an ISO would be considered available for new orders to be entered or for resting orders to re-price. By codifying these rules with clear distinctions based on trading session and order type—including the treatment of ISOs during Regular Trading Hours versus off-hours sessions and the handling of Non-Displayed ISOs—the Exchange removes ambiguity that could otherwise impede Users' ability to structure and implement their trading strategies effectively. Clear and predictable rules governing how ISOs interact with the BZX Book are fundamental to the proper functioning of a free and open market, as they allow market participants to understand with certainty how their orders will be handled and to make informed routing and execution decisions accordingly.

The Exchange believes that its proposal to amend Rule 11.9(g)(4) to permit Non-Displayed Orders to re-price multiple times based on User instruction promotes just and equitable principles of trade and protects investors and the public interest by providing Users with greater control over how their Non-Displayed Orders interact with the prevailing NBBO over time. Under current Rule 11.9(g)(4), a Non-Displayed Order that has been re-priced due to crossing a Protected Quotation of an away market may not be re-priced again unless it is again crossing a Protected Quotation. This restriction limits the ability of Non-Displayed Orders to respond dynamically to changing market conditions, potentially resulting in those orders being ranked at prices that no longer reflect optimal execution opportunities. By removing this limitation and permitting Non-Displayed Orders to receive a new timestamp and be ranked at the most aggressive permissible price following NBBO movement—subject to User instruction—the Exchange promotes just and equitable principles of trade and protects investors and the public interest by enabling more efficient price discovery and facilitating the execution of orders at prices that are consistent with current market conditions.

The Exchange further notes that the proposed Non-Displayed Order re-pricing behavior is consistent with the existing price sliding framework applicable to displayed orders and extends established principles to Non-Displayed Orders in a logical and equitable manner. Allowing Non-Displayed Orders to slide multiple times does not confer any unfair advantage on Users who employ such orders; rather, it ensures that Non-Displayed Orders

[31] *Supra* note 12.

are handled in a manner that is commensurate with the flexibility already available to displayed orders. The Exchange also notes that the proposed re-pricing behavior for Non-Displayed Orders will be available to all Users on an equal and non-discriminatory basis, consistent with the requirements of Section 6(b)(5) of the Act.

The Exchange further believes that permitting Non-Displayed Orders to re-price multiple times removes impediments to and perfects the mechanism of a free and open market and national market system by allowing Non-Displayed Orders to respond more dynamically to changing NBBO conditions in a manner that maximizes execution opportunities for Users.

Under the current framework, a Non-Displayed Order that has been re-priced once will not be re-priced again until it is again crossing a Protected Quotation of an away market. This limitation means that, even as market conditions change and the NBBO moves in a direction that would permit the Non-Displayed Order to be ranked at a more aggressive permissible price, the order remains statically ranked at a potentially suboptimal price level. The proposed amendment—which allows Non-Displayed Orders to re-price multiple times following NBBO movement subject to User instruction—removes this impediment by ensuring that Non-Displayed Orders are always ranked at the most aggressive permissible price consistent with the prevailing NBBO and the User's order instructions. This enhances the liquidity available on the BZX Book, promotes more efficient price discovery, and contributes to the overall quality of the national market system.

All aspects of the proposed rule change—including the ability to enter Non-Displayed ISOs, the codified rules governing the price level at which an ISO is considered available for other orders to be entered, and the expansion of Non-Displayed Order re-pricing to allow multiple re-pricings—are available to all Users of the Exchange on an equal and non-discriminatory basis. No User or class of Users is afforded preferential access to the proposed functionalities, and no User or class of Users is disadvantaged or excluded from utilizing the proposed order types and instructions.

Further, participation in any of the proposed functionalities is entirely voluntary. No User is required to enter ISOs as Non-Displayed Orders or to designate Non-Displayed Orders with the ability to re-price multiple times. The decision to utilize any of the proposed features is left entirely to the discretion of individual Users, who are in the best position to determine which order types and instructions are appropriate for their given trading strategies. Because the proposed functionalities are uniformly available to all Users on the same terms and conditions, and because participation is wholly optional, the proposed rule change does not permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange further notes that the proposed rule change does not impose any new requirements or obligations on Users who do not wish to utilize the proposed functionalities. Users who prefer to continue entering ISOs as displayed orders, or who prefer to continue submitting Non-Displayed Orders without a multiple re-price instruction, may do so without any change to their current order handling. The proposed rule change thus expands the range of choices available to all Users on an equal basis without restricting or altering the rights of any User who elects not to take advantage of the proposed features.

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 intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange's proposal to introduce a Non-Displayed ISO is a competitive response to a similar order type offered on at least one other exchange. As with other national securities exchanges, the Exchange must continually assess and improve its offerings to compete with other exchanges and market centers. The proposed rule change is indicative of this competition. The Exchange does not believe that its proposal to codify Rules 11.9(d)(1) through (3), which describe the price level at which the System will consider an ISO available for other orders to be entered, imposes any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. These rules are operational and clarifying in nature and are not being introduced for competitive purposes. Further, the Exchange does not believe that the proposal to amend Rule 11.9(g)(4) to permit Non-Displayed Orders to re-price multiple times based on User instruction imposes any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Permitting Non-Displayed Orders to respond dynamically to changing NBBO conditions—by re-pricing to the most aggressive permissible price following each relevant NBBO movement, subject to User instruction—improves the execution quality available on the Exchange for Non-Displayed Orders, making the Exchange a more attractive venue for market participants who rely upon such orders.

Additionally, the Exchange does not believe that the proposed rule changes would implicate any intramarket competitive concerns with respect to its Users. The proposed rule change to permit Users to enter an ISO with a non-displayed instruction and proposed rule change to enable Users to elect to permit Non-Displayed Orders to re-price multiple times are completely voluntary and available to all Users on an equal and non-discriminatory basis. Rather than impede competition, the proposed rule changes would provide an additional order type and order instruction for Users to facilitate their trading goals. Furthermore, the proposed rule change to codify Rules 11.9(d)(1)–(3) is not being introduced for competitive reasons and serves only to provide additional details about the price levels at which orders may be accepted and re-price.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2026–053 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2026–053. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2026–053 and should be submitted on or before July 14, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–12524 Filed 6–22–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105721; File No. SR–PEARL–2026–27]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Rules 2627 And 2628 To Integrate Several Definitions and Concepts From the Amended CTA/CQ Plan, Reorganize Rule 2622, and Make Conforming Changes to Related Rules

June 17, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 8, 2026, MIAX PEARL, LLC (''MIAX Pearl'' or the ''Exchange''),[3] filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt Rules 2627 and 2628 to integrate several definitions and concepts from the Amended CTA/CQ Plan (described below), reorganize Rule 2622 in light of the Exchange's experience with applying the rule during its time as a national securities exchange, and make conforming changes to related rules.

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-equities/pearl-equities/rule-filings,* and at MIAX Pearl's principal office.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MIAX Pearl 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. MIAX Pearl has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In conjunction with adoption of Amended CTA/CQ Plan proposed by its participants (''Amended CTA/CQ Plan''),[4] the Exchange proposes to adopt Rules 2627 and 2628 to integrate several definitions and concepts from the Amended CTA/CQ Plan, reorganize existing Rule 2622 in light of the Exchange's experience with applying the rule during its time as a national securities exchange, and make conforming changes to related rules. Current Rule 2622 would be reorganized to include only the Limit Up-Limit Down Mechanism.[5] Proposed Rule 2627 would be entitled ''Trading Halts'' and would set forth the Exchange's authority to halt trading under various circumstances. Proposed Rule 2628 would be entitled ''Trading Halts Due to Extraordinary Market Volatility'' and would contain the rule text related to Market-Wide Circuit Breakers currently codified in Rule 2622(a)–(g) and (j). As part of these changes, the Exchange will create categories of regulatory and operational halts, improve the rule's clarity, and adopt defined terms from the Amended CTA/CQ Plan. In addition, the Exchange is updating cross references in other rules that are affected by the proposed changes.

Background

The Exchange has been working with other SROs to establish common criteria and procedures for halting and resuming trading in equity securities in the event of regulatory or operational issues. These common standards are designed to ensure that events which might impact multiple exchanges are handled in a consistent manner that is transparent. The Exchange believes that implementation of these common standards will assist the SROs in maintaining fair and orderly markets. Notwithstanding the development of these common standards, the Exchange will retain discretion in certain instances as to whether and how to handle halts, as is described below.

Every U.S.-listed equity security has its primary listing on a specific stock exchange that is responsible for a

[32] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] All references to ''MIAX Pearl'' in this filing are to MIAX Pearl Equities, the equities trading facility of MIAX PEARL, LLC. *See* Exchange Rule 1901.

[4] On February 23, 2021, the participants of the CTA/CQ Plans filed Amendment 36 to the CTA Plan and Amendment 27 to the CQ Plan, to revise provisions governing regulatory and operational halts. *See* Letter from Robert Books, Chairman, Operating Committee, CTA/CQ Plans, to Vanessa Countryman, Secretary, Securities and Exchange Commission, dated February 3, 2021. The SEC approved the amendments on May 28, 2021. *See* Securities Exchange Act Release No. 34–92070 (May 28, 2021), 86 FR 29849 (June 3, 2021) (SR–CTA/CQ–2021–01). The Amended CTA/CQ Plan includes provisions requiring participant self-regulatory organizations (''SROs'') to honor a Regulatory Halt declared by the Primary Listing Market. The provisions in the CTA/CQ Plans, and the plan for consolidation of data for NASDAQ-listed securities, The Joint Self-Regulatory Organization Plan Governing The Collection, Consolidation and Dissemination of Quotation and Transaction Information For NASDAQ-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis (''UTP Plan''), include provisions similar to the changes proposed by the Exchange in this filing.

[5] *See* Securities Exchange Act Release No. 88704 (April 21, 2020), 85 FR 23383 (April 27, 2020) (File No. 4–631) (approving the Twentieth Amendment to the National Market System Plan to Address Extraordinary Market Volatility).

number of regulatory functions.[6] These include confirming that the security continues to meet the exchange's listing standards, monitoring trading in that security and taking action to halt trading in the security when necessary to protect investors and to ensure a fair and orderly market. While these core responsibilities remain with the primary listing venue, trading in the security can occur on multiple exchanges that have unlisted trading privileges for the security or in the over-the-counter market, regulated by the Financial Industry Regulatory Authority, Inc. (''FINRA''). The exchanges and FINRA are responsible for monitoring activity on the markets over which they have oversight, but also must abide by the regulatory decisions made by the Primary Listing Market. For example, a venue trading a security pursuant to unlisted trading privileges must halt trading in that security during a Regulatory Halt, which is a defined term under the proposed rules,[7] and may only trade the security once the Primary Listing Market has cleared the security to resume trading.

While the Exchange and the other SROs intend to harmonize certain aspects of their trading halt rules, other elements of the rules will continue to be unique to each market. The Exchange believes that this is appropriate to reflect different products listed or traded on each market.

In addition to establishing common criteria and procedures for halting and resuming trading in equity securities in the event of regulatory or operational issues, the Exchange is reorganizing the rule to improve clarity. The Exchange will implement all of the changes proposed herein in conjunction with other SROs implementing the necessary rule changes. The Exchange will publish a Regulatory Circular at least 30 business days prior to implementing the proposed changes.

Definitions

The Exchange proposes adding a definitions section as Rule 2627(a) to consolidate the various definitions that will be used in the Rule, some of which are taken from the Amended CTA/CQ Plan. The Exchange proposes to adopt the following terms from the Amended CTA/CQ Plan: ''Operating Committee,'' ''Operational Halt,'' ''Primary Listing Market,'' ''Processor,'' [8] ''Regulatory Halt,'' ''SIP Halt,'' and ''SIP Halt Resume Time.'' The Exchange proposes to adopt a modified form of the term ''Extraordinary Market Activity'' from the Amended CTA/CQ Plan, as described below. The definitions of ''Late Trading Session,'' ''Early Trading Session,'' ''Regular Trading Hours,'' and ''UTP Security'' are currently defined in Rule 1901 and have been cross-referenced in the definitions section.[9]

First, the Exchange proposes to add the definition of ''Primary Listing Market'' [10] to Rule 2627(a), which will have the same meaning as in the Amended CTA/CQ Plan, Section XI(a)(i)(H). Under the CTA/CQ Plans, all Regulatory Halt decisions are made by the market on which the security has its primary listing. This reflects the regulatory responsibility that the Primary Listing Market has for fair and orderly trading in the securities that list on its market and its direct access to its listed companies, which are required to advise it of certain events and maintain lines of communication with the Primary Listing Market. The proposed definition makes clear that if a security is listed on more than one market (a dually-listed security), the Primary Listing Market means the exchange on which the security has been listed the longest. This provision matches the language used in the definition of ''Primary Listing Exchange'' in the Limit Up-Limit Down Plan and will avoid conflict in the event of dually-listed securities.

Second, the Exchange proposes to add the definition of ''Extraordinary Market Activity'' to Rule 2627(a), which would represent a modified version of the term defined in the Amended CTA/CQ Plan, Section XI(a)(i)(A).[11] Specifically, the Exchange proposes to remove the concept of a ''market-wide basis'' from the Amended CTA/CQ Plan's definition of Extraordinary Market Activity for purposes of the Exchange's Rules because the term ''Extraordinary Market Activity'' would only be used in the Exchange's Rules as a basis for the Exchange to initiate an Operational Halt, which would only occur on the market declaring the halt (*i.e.,* the Exchange).[12] The current rule does not include a definition for Extraordinary Market Activity.

The next set of new proposed definitions would be specific to events involving the SIP. While the Exchange recognizes that many events involving the SIP would also meet the definition of ''Extraordinary Market Activity'' (as defined in the Amended CTA/CQ Plan), the Exchange believes that the critical role of the SIPs in market infrastructure factors in favor of additional guidance on how such events will be handled. The definitions of ''SIP Halt Resume Time,'' and ''SIP Halt'' are intended to provide additional guidance and specific processes to address this subset of potential market issues.[13] In addition, the Exchange proposes to define terms related to SIP governance needed in order to understand these definitions:

- ''Processor'' or ''SIP'' [14] have the same meaning as the term ''Processor''

[6] The Exchange proposes to adopt Primary Listing Market as a new term, defined in the CTA/CQ Plans, Section XI(a)(i)(H), as follows: ''[T]he national securities exchange on which an Eligible Security is listed. If an Eligible Security is listed on more than one national securities exchange, Primary Listing Market means the exchange on which the security has been listed the longest.''

[7] *See* proposed Rule 2627(a)(8).

[8] The Exchange proposes to also define the term ''SIP'' to have the same meaning as the term ''Processor'' as set forth in the Amended CTA/CQ Plan. Because the terms ''Processor'' and ''SIP'' are also used throughout the Rules, at time, to apply to processors of information furnished pursuant to the Nasdaq UTP Plan (''UTP Plan''), the term ''Processor'' may, in those applicable circumstances, refer to the processor of transactions in Tape C securities, as set forth in the UTP Plan.

[9] As noted above, the Exchange proposes to adopt several new terms that have the same meaning as those terms are defined in the Amended CTA/CQ Plan. Each of the national market system plans governing the single plan processors have identical definitions of these terms, thus there will be uniformity in the meaning of the terms among such plans as well as among the rules of the SROs.

[10] *See* proposed Rule 2627(a)(6).

[11] In the Amended CTA/CQ Plan, ''Extraordinary Market Activity'' means a disruption or malfunction of any electronic quotation, communication, reporting, or execution system operated by, or linked to, the Processor or a Trading Center or a member of such Trading Center that has a severe and continuing negative impact, on a market-wide basis, on quoting, order, or trading activity or on the availability of market information necessary to maintain a fair and orderly market. For purposes of this definition in the Amended CTA/CQ Plan, a severe and continuing negative impact on quoting, order, or trading activity includes (i) a series of quotes, orders, or transactions at prices substantially unrelated to the current market for the security or securities; (ii) duplicative or erroneous quoting, order, trade reporting, or other related message traffic between one or more Trading Centers or their members; or (iii) the unavailability of quoting, order, or transaction information for a sustained period.

[12] The Exchange proposes to define ''Extraordinary Market Activity'' to mean a disruption or malfunction of any electronic quotation, communication, reporting, or execution system operated by, or linked to, the Processor or a Trading Center or a member of such Trading Center that has a severe and continuing negative impact on quoting, order, or trading activity or on the availability of market information necessary to maintain a fair and orderly market. For purposes of this definition in the Exchange's rules, a severe and continuing negative impact on quoting, order, or trading activity includes (i) a series of quotes, orders, or transactions at prices substantially unrelated to the current market for the security or securities; (ii) duplicative or erroneous quoting, order, trade reporting, or other related message traffic between one or more Trading Centers of their members; or (iii) the unavailability of quoting, order, transaction information, or regulatory messages for a sustained period.

[13] The Exchange proposes to define the terms ''SIP Halt Resume Time'' and ''SIP Halt'' to have the same meaning as in the Amended CTA/CQ Plan.

[14] *See* proposed Rule 2627(a)(7).

set forth in the CTA/CQ Plans, namely the entity selected by the Participants to perform the processing functions set forth in the Plans. Because the terms ''Processor'' and ''SIP'' are also used throughout the Rules, at times, to apply to processors of information furnished pursuant to the Nasdaq UTP Plan, the term ''Processor'' and ''SIP'' may, in those applicable circumstances, refer to the processor of transactions in Tape C securities, as set forth in the Nasdaq UTP Plan.

• ''Operating Committee'' [15] is defined as having the same meaning as in the CTA/CQ Plans, namely the committee charged with administering the CTA/CQ Plans.

The Exchange proposes to adopt a category of Regulatory Halt, called a ''SIP Halt,'' [16] which will have the same meaning as that term is defined in Section XI(a)(i)(K) of the CTA/CQ Plans, namely ''a Regulatory Halt to trading in one or more securities that a Primary Listing Market declares in the event of a SIP Outage or Material SIP Latency.'' This new category of Regulatory Halt will address situations where the Primary Listing Market declares a Regulatory Halt in one or more securities as a result of a SIP Outage [17] or Material SIP Latency.[18]

The Exchange proposes to add a definition of ''Regulatory Halt'' [19] as having the same meaning as in Section XI(a)(i)(J) of the Amended CTA/CQ Plan, which defines a Regulatory Halt to mean a halt declared by the Primary Listing Market in trading in one or more securities on all Trading Centers [20] for regulatory purposes, including for the dissemination of material news, news pending, suspensions, or where otherwise necessary to maintain a fair and orderly market. A Regulatory Halt includes a trading pause triggered by Limit Up-Limit Down, a halt based on Extraordinary Market Activity (as defined in the Amended CTA/CQ Plan), a trading halt triggered by a Market-Wide Circuit Breaker, and a SIP Halt.

Finally, the Exchange proposes to add a definition of ''Operational Halt,'' [21] as having the same meaning as in Section XI(a)(i)(G) of the Amended CTA/CQ Plan, which defines an Operational Halt to mean ''a halt in trading in one or more securities only on a Market declared by such Participant and is not a Regulatory Halt.'' [22] An Operational Halt is effective only on the Exchange; other markets are not required to halt trading in the impacted securities. In practice, the Exchange has always had the capacity to implement operational halts in specified circumstances, but such halts are not currently referred to as ''operational halts'' in the Exchange's rules.[23] The proposed change would provide greater clarity on when an Operational Halt may be implemented and the process for halting and resuming trading in the event of an Operational Halt. An Operational Halt is not a Regulatory Halt.

Regulatory Halt Types

Proposed Rule 2627(b) would set forth requirements relating to Regulatory Halts.

Authority To Initiate a Regulatory Halt

The Exchange proposes to consolidate the various types of situations that form the basis for declaring a Regulatory Halt in proposed Rule 2627(b)(1). In this subsection, the Exchange would identify all of the bases for its Regulatory Halt authority, including cross-referencing to current rules describing existing halt authority and by adding the new Regulatory Halt authority consistent with the Amended CTA/CQ Plan.

Proposed Rule 2627(b)(1)(i) describes ''Mandatory Halts,'' where the Exchange must issue a Regulatory Halt. The proposed rule would identify four categories of Regulatory Halts:

• Pursuant to proposed Rule 2627(b)(1)(i)(A) regarding the Market-Wide Circuit Breakers, which will be retained without modification in proposed Rule 2628 (currently codified in Rule 2622(a)–(g) and (j)). This proposed rule would effectuate the definition of Regulatory Halt in proposed Rule 2627(a)(8), which cross-references Section XI(a)(i)(J) of the Amended CTA/CQ Plan.

• Pursuant to proposed Rule 2627(b)(1)(i)(B) regarding the Limit Up-Limit Down Mechanism (proposed Rule 2622). This proposed rule would effectuate the definition of Regulatory Halt in proposed Rule 2627(a)(8), which cross-references Section XI(a)(i)(J) of the Amended CTA/CQ Plan. The Exchange, as a non-Primary Listing Market, does not itself declare trading pauses pursuant to the Limit Up-Limit Down Mechanism, but rather implements such pauses declared by Primary Listing Markets.

• Pursuant to proposed Rule 2627(b)(1)(i)(C), which would provide that the Exchange must halt trading when the Primary Listing Market declares a SIP Halt or halts trading based on Extraordinary Market Activity. This proposed rule would effectuate the definition of Regulatory Halt in proposed Rule 2627(a)(8), which cross-references Section XI(a)(i)(J) of the Amended CTA/CQ Plan.

• Pursuant to proposed Rule 2627(b)(1)(i)(D), which would provide that the Exchange would honor a Regulatory Halt initiated by the Primary Listing Market for any security listed on the Exchange. This proposed rule would effectuate the definition of Regulatory Halt in proposed Rule 2627(a)(8), which cross-references Section XI(a)(i)(J) of the Amended CTA/CQ Plan.

The Exchange proposes to add proposed Rule 2627(b)(1)(i)(D)1., which makes clear that the start time of a Regulatory Halt is the time the Primary Listing Market declares the Regulatory Halt, regardless of whether communication issues impact the dissemination of notice of the Halt.[24] This proposal would provide market participants with certainty on the official start time of the Regulatory Halt. Under the proposed rule, the start time is fixed by the Primary Listing Market; it is not dependent on whether notice is disseminated immediately. This will avoid possible disagreement if the Regulatory Halt time were tied to dissemination or receipt of notification, which may occur at different times. The Exchange recognizes that in situations where communication is interrupted, trades may continue to occur until news of the Regulatory Halt reaches all Trading Centers. However, a fixed ''official'' Regulatory Halt time will allow SROs to revisit trades after the

[15] *See* proposed Rule 2627(a)(3).

[16] *See* proposed Rule 2627(a)(10).

[17] SIP outage means a situation in which the Processor has ceased, or anticipates being unable, to provide updated and/or accurate quotation or last sale price information in one or more securities for a material period that exceeds the time thresholds for an orderly failover to backup facilities established by mutual agreement among the Processor, the Primary Listing Market for the affected securities, and the Operating Committee unless the Primary Listing Market, in consultation with the Processor and the Operating Committee, determines that resumption of accurate data is expected in the near future. *See* Amended CTA/CTA Plan, Section XI(a)(i)(M).

[18] Material SIP latency means a delay of quotation or last sale price information in one or more securities between the time data is received by the Processor and the time the Processor disseminates the data over the Processor's vendor lines, which delay the Primary Listing Market determines, in consultation with, and in accordance with, publicly disclosed guidelines established by the Operating Committee, to be (a) material and (b) unlikely to be resolved in the near future. *See* Amended CTA/CTA Plan, Section XI(a)(i)(E).

[19] *See* proposed Rule 2627(a)(8).

[20] *See* Amended CTA/CQ Plan Section XI(a)(i)(N). A ''Trading Center'' has the same meaning as that term is defined in Rule 600(b)(82) of Regulation NMS.

[21] *See* proposed Rule 2627(a)(4).

[22] A ''Market'' has the same meaning as that term is defined in Section XI(A)(i)(C) of the Amended CTA/CQ Plan.

[23] *See* Exchange Rule 2600(b).

[24] This is consistent with the Amended CTA/CQ Plan. *See* Amended CTA/CQ Plan, Section XI(a)(iv)(A).

fact and determine in a consistent manner whether specific trades should stand.

Resumption of Trading After a Regulatory Halt

The SROs have jointly developed processes to govern the resumption of trading in the event of a Regulatory Halt. While the actual process of re-launching trading will remain unique to each exchange, the proposed rule would harmonize certain common elements of the reopening process that would benefit from consistency across markets. These common elements include the primacy of the Primary Listing Market in resumption decisions, the requirement that the Primary Listing Market make its determination to resume trading in good faith,[25] and certain parts of the complex process of reopening trading after a SIP Halt. With respect to a SIP Halt, common elements of the reopening process include the interaction among SROs (including the Primary Listing Market with the SIP), the requirement that the Primary Listing Market terminate a SIP Halt with a notification that specifies a SIP Halt Resume Time, the minimum quoting times before resumption of trading, the cutoff time after which trading would not resume during Regular Trading Hours, and the time when trading may resume if the Primary Listing Market does not open a security within the amount of time specified in its rules after the SIP Halt Resume Time.

Proposed Rule 2627(b)(2), which incorporates Section XI(a)(v)(A) and Section XI(a)(vi)(C) of the Amended CTA/CQ Plan, is divided into the following two subsections concerning resumption of trading: (A) after a Regulatory Halt other than a SIP Halt; and (B) after a SIP Halt. Proposed Rule 2627(b)(2)(i)(A) provides that, for a Regulatory Halt other than a SIP Halt, the Exchange may resume trading after the Exchange receives notification from the Primary Listing Market that the Regulatory Halt has been terminated.

Proposed Rule 2627(b)(2)(i) provides the process to be followed when resuming trading upon the conclusion of Regulatory Halts other than SIP Halts. The new rule would effectuate Section XI(a)(v) of the Amended CTA/CQ Plan.

Proposed Rule 2627(b)(2)(ii) would address the resumption of trading following a SIP Halt. The new rule would effectuate Section XI(a)(vi) of the Amended CTA/CQ Plan. Proposed Rule 2627(b)(2)(ii)(A) would provide that, for securities subject to a SIP Halt initiated by another exchange that is the Primary Listing Market, during Regular Trading Hours, the Exchange may resume trading after trading has resumed on the Primary Listing Market or notice has been received from the Primary Listing Market that trading may resume. During Regular Trading Hours, if the Primary Listing Market does not open a security within the amount of time specified by the rules of the Primary Listing Market after the SIP Halt Resume Time, the Exchange may resume trading in that security. Outside Regular Trading Hours, the Exchange may resume trading immediately after the SIP Halt Resume Time.[26]

Proposed Rule 2627(b)(2)(iii) would state that trading will resume and orders will be accepted pursuant to the re-opening process found in current Rule 2615(e). The Exchange proposes to amend Rule 2615(e) to make clear that the rule applies to the resumption of trading following a Regulatory or Operational Halt and to amend the cross-reference to the rule associated with halts due to a Market-Wide Circuit Breaker. Rule 2615(e) describes the re-opening process for all securities subject to a Regulatory or Operational Halt and is consistent with current practice.

The Exchange also proposes to amend Rule 2615(e) to align the rule with how the Exchange would handle orders submitted in a security subject to halt initiated pursuant to Rule 2628(b)(2) following a Level 3 Market Decline, suspension, or pause in trading. Current Rule 2615(e) provides that the Exchange will not accept orders when an equity security is halted pursuant to Rule 2628(b)(2) following a Level 3 Market Decline, suspension, or pause in trading. This is not consistent with current functionality where the Exchange will accept orders following a Level 3 Market Decline even though those orders would never become eligible for execution on the Exchange since the Exchange will not re-open for trading on that trading day and offers no time-in-force instructions, such as good-till cancel, that would allow an order to remain on the Pearl Equities Book for more than one trading day.[27] Therefore, the Exchange proposes to amend Rule 2615(e) to align with current system functionality should a Level 3 Market Decline occur.[28] As amended, Rule 2615(e) would clarify that the Exchange will accept orders submitted in a security subject to a halt initiated due to a Level 3 Market Decline and specify that such orders, unless cancelled by the Equity Member, will be cancelled in accordance with their applicable time-in-force instruction and prior to the time the Exchange may resume trading the following trading day.[29]

Operational Halt

The Exchange proposes in Rule 2627(c) to address Operational Halts, which are non-regulatory in nature and apply only to the Exchange that calls the halt. As described above, the Exchange has always had the capacity to implement operational halts and local trading suspensions in specified circumstances, but such halts are not currently referred to as ''operational halts'' in the Exchange's rules.[30] As part of the Exchange's assessment with the other SROs of the halting and resumption of trading, the Exchange believes that the markets would benefit from greater clarity regarding when an Operational Halt may be appropriate. In part, the proposed change is designed to cover situations similar to those that might constitute a Regulatory Halt, but where the impact is limited to a single market. For example, just as a market disruption might trigger a Regulatory Halt for Extraordinary Market Activity (as defined in the Amended CTA/CQ Plan) if it affects multiple markets, so a disruption at the Exchange, such as a technical issue affecting trading in one or more securities, could impact trading on the Exchange so significantly that an Operational Halt is appropriate in one or more securities. In such an instance, it would be in the public interest to institute an Operational Halt to minimize the impact of a disruption that, if trading were allowed to continue, might negatively affect a greater number of market participants. An Operational Halt does not implicate other trading centers.

Proposed Rule 2627(c)(1) would specify the Exchange's authority to initiate an Operational Halt, which is discretionary, and provide that the Exchange may declare an Operational Halt for any security trading on the Exchange if it is experiencing

[25] *See* Partial Amendment No. 1 to the CTA/CQ Plans, dated March 31, 2021.

[26] *See* Partial Amendment No. 2 of Trading Halt Amendments to the CTA/CQ Plan, dated April 7, 2021.

[27] *See* Exchange Rule 2614(b).

[28] To date, the Exchange has not initiated a halt due to a Level 3 Market Decline. The Exchange intends to modify its functionality to reject orders submitted in a security subject to halt initiated pursuant to Rule 2628(b)(2) following a Level 3 Market Decline. The Exchange will submit a proposed rule change pursuant to Section 19(b) of the Act to amend Exchange Rule 2615(e) accordingly prior to implementing such change.

[29] The Exchange notes that this change differs from Cboe EDGX. *See supra* note 4.

[30] *See* Exchange Rule 2600(b). The Exchange also notes that its proposed Rule 2627(c) regarding Operational Halts is substantially identical to similar rule changes filed by competitor exchanges. *See supra* note 4.

Extraordinary Market Activity on the Exchange (proposed Rule 2627(c)(1)(i)) or when otherwise necessary to maintain a fair and orderly market or in the public interest (proposed Rule 2627(c)(1)(ii)).

Under proposed Rule 2627(c)(2), the Exchange would notify the Processor if it has concerns about its ability to collect and transmit quotes, orders, or last sale prices, or if it has declared an Operational Halt or suspension of trading in one or more Eligible Securities (as that term is defined in the Amended CTA/CQ Plan), pursuant to the procedures adopted by the Operating Committee.

Proposed Rule 2627(c)(3) would clarify how the Exchange resumes trading after an Operational Halt. Proposed Rule 2627(c)(3)(i) provides that the Exchange would resume trading when it determines that trading may resume in a fair and orderly manner consistent with the Exchange's rules. Proposed Rule 2627(c)(3)(ii) specifies that the Exchange would resume trading following an Operational Halt pursuant to Rule 2615(e).

Proposed Rule 2627(c)(4) provides that trading in a halted security shall resume at the time specified by the Exchange in a notice. It would further specify that the Exchange would notify all other Plan participants and the SIP of such Operational Halt as well as provide notice that an Operational Halt has been lifted using such protocols and other emergency procedures as may be mutually agreed to between the Operating Committee and the Exchange. If the SIP is unable to disseminate notice of an Operational Halt or the Exchange is not open for trading, the Exchange would take reasonable steps to provide notice of an Operational Halt, which shall include both the type and start time of the Operational Halt. Each Plan participant shall continuously monitor communication protocols established by the Operating Committee and the Processor during market hours to disseminate notice of an Operational Halt, and the failure of a participant to do so shall not prevent the Exchange from initiating an Operational Halt.

Conforming Changes to Other Rules

The Exchange proposes to modify Rule 2606 (Equity Market Maker Obligations), Rule 2614 (Orders and Order Instructions), Rule 2615 (Opening Process for Equity Securities), Rule 2617 (Order Execution and Routing), and Rule 2900 (Unlisted Trading Privileges) that cross reference Rule 2622 in light of the reorganization of current Rule 2622 into Rules 2627 and 2628. Rule 2606(a)(6)–(7), Rule 2614(a)(1)(viii), Rule 2614(a)(3)(i)8., Rule 2614(c)(2)(ii), Rule 2617(a)(3), Rule 2617(b)(3), Rule 2617(b)(4)(ii)(B)–(C), will be modified to update a cross reference to the Rule that governs Limit Up-Limit Down procedures. Rule 2614(c)(1), Rule 2615(e) and Rule 2900(b) will be modified to update a cross reference to the Rule that governs Market-Wide Circuit Breakers. Additionally, the first sentence of Exchange Rule 2606(a)(6) will be amended to include the word ''term'' that was inadvertently omitted. The Exchange also proposes to amend Exchange Rule 2614(c)(2)(ii) to include ''of'' that was inadvertently omitted after the phrase ''paragraph (g)''. In addition, the heading of Rule 2615(e) will be modified to include the word ''Regulatory or Operational'' in order to indicate its applicability to Regulatory or Operational Halts. The Exchange proposes to amend the cross reference contained in Exchange Rule 2900(b)(3), that is to current Rule 2622, to now be to proposed Rule 2627. The Exchange notes that the changes described above are not substantive and serve only to update cross references to rules that have been relocated.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[31] in general, and furthers the objectives of Section 6(b)(5).[32] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[33] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[34] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As described above, the Exchange and other SROs are seeking to adopt harmonized rules related to halting and resuming trading in U.S.-listed equity securities. The Exchange believes that the proposed rules will provide greater transparency and clarity with respect to the situations in which trading will be halted and the process through which that halt will be implemented and terminated. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. equities exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest. Based on the foregoing, the Exchange believes that the proposed rules are consistent with Section 6(b)(5) of the Act[35] because they will foster competition and coordination with persons engaged in regulating and facilitating transactions in securities.

As discussed previously, the Exchange believes that the various provisions of the proposed rules that will apply to all SROs are focused on the type of cross-market event where a consistent approach will assist market participants and reduce confusion during a crisis. Because market participants often trade the same security across multiple venues and trade securities listed on different exchanges as part of a common strategy, the Exchange believes that the proposed rules will lessen the risk that market participants holding a basket of securities will have to deal with divergent outcomes depending on where the securities are listed or traded. Conversely, the proposed rules would still allow individual SROs to react differently to events that impact various securities or markets in different ways. This avoids the ''brittle market'' risk where an isolated event at a single market forces all markets trading equity securities to halt or halts trading in all securities where the issue impacted only a subset of securities. By addressing both concerns, the Exchange believes that the proposed rules further the Act's goal of maintaining fair and orderly markets.

The Exchange believes that the proposed rules' focus of responsibility on the Primary Listing Market for decisions related to a Regulatory Halt and an Operational Halt and the resumption of trading is consistent with the Act, which itself imposes obligations on exchanges with respect to issuers that are listed. As is currently the case, the Primary Listing Market would be responsible for the many regulatory functions related to its listings, including the determination of when to declare a Regulatory Halt. While these core responsibilities remain with the Primary Listing Market, trading in the security can occur on multiple exchanges that have unlisted trading

[31] 15 U.S.C. 78f(b).

[32] 15 U.S.C. 78f(b)(5).

[33] *Id.*

[34] *Id.*

[35] *Id.*

privileges for the security, such as on the Exchange, or in the over-the-counter market, regulated by FINRA. The Exchange is responsible for monitoring activity on its own markets, but also must honor a Regulatory Halt.

The proposed changes relating to Regulatory Halts would ensure that all SROs handle the situations covered therein in a consistent manner that would prevent conflicting outcomes in cross-market events and ensure that all trading centers recognize a Regulatory Halt declared by the Primary Listing Market. The changes are consistent with and implement the Amended CTA/CQ Plan. The Exchange believes that the other definitions in the proposed rules are also consistent with the Act. For example, the proposed rules would define what constitutes Extraordinary Market Activity, consistent with the amended definition of that term in the Amended CTA/CQ Plan, thereby furthering the Act's goal of promoting fair and orderly markets. The Exchange is also proposing to adopt definitions for ''SIP Outage,'' ''Material SIP Latency'' and ''SIP Halt,'' to explicitly address situations that may disrupt the markets, and these definitions are identical to the definitions in the Amended CTA/CQ Plan. The proposed rules provide guidance on when the Exchange should seek information from the Operating Committee, other SROs and market participants as well as means for dissemination of important information to the market, consistent with the Amended CTA/CQ Plan. The Exchange believes these provisions strike the right balance in outlining a process to address unforeseen events without preventing SROs from taking action needed to protect the market.

The Exchange believes that the proposed rules, which make halts more consistent across exchange rules, are consistent with the Act in that they will foster cooperation and coordination with persons engaged in regulating the equities markets. In particular, the Exchange believes it is important for SROs to coordinate when there is a widespread and significant event, as multiple trading centers are impacted in such an event. Further, while the Exchange recognizes that the proposed rule will not guarantee a consistent result on every market in all situations, the Exchange does believe that it will assist in that outcome. While the proposed rules relating to Regulatory Halts focus primarily on the kinds of cross-market events that would likely impact multiple markets, individual SROs will still retain flexibility to deal with unique products or smaller situations confined to a particular market.

Also consistent with the Act, and with the Amended CTA/CQ Plan, is the Exchange's proposal in Rule 2627(c) to address Operational Halts, which are non- regulatory in nature and apply only to the exchange that calls the halt. As noted earlier, the Exchange presently has the ability to implement operational halts and local trading suspensions, but such halts are not currently referred to as ''operational halts'' in the Exchange's rules.[36] The Exchange also notes that its proposed Rule 2627(c) regarding Operational Halts is substantially identical to the proposals filed by competitor exchanges,[37] and is therefore not novel.

Additionally, the proposed conforming changes to Rules 2606, 2614, 2615, 2617, and 2900 are consistent with the Act in that they seek to provide the correct reference to the Limit Up-Limit Down procedures and halts, suspensions, or trading pauses due to Market-Wide Circuit Breakers without modification from current Rule 2622. The Exchange believes that it is consistent with the Act to reorganize the text related to Market-Wide Circuit Breakers currently codified in Rule 2622(a)–(g) and (j) into Rule 2628 as it would provide clarity to market participants and better align with how the rules of other market centers are currently organized.

Finally, the Exchange believes the proposed amendments to align Rule 2615(e) with system functionality regarding the handling of orders submitted in a security subject a halt initiated pursuant to Rule 2628(b)(2) following a Level 3 Market Decline will provide clarity to market participants about how their orders will be handled in the event such a halt should occur. The Exchange notes that this change differs from Cboe EDGX, who would reject orders in such circumstances. However, this difference is immaterial because, on both Cboe EDGX and the Exchange, the order would never become eligible for execution. The Exchange would also permit the Equity Member to cancel the order immediately if they chose, and, in all cases, the Exchange would cancel such orders prior to the time the Exchange resumes trading. The Exchange notes that it has not experienced a halt pursuant to a Level 3 Market Decline to date. However, should one occur, the proposed rule would provide investors clarify with how their orders would be handled by the Exchange in such circumstances, thereby avoiding potential investor confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act[38] in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as explained below.

Importantly, the Exchange believes the proposal will not impose a burden on intermarket competition but will rather alleviate any burden on competition because it is the result of a collaborative effort by all SROs to harmonize and improve the process related to the halting and resumption of trading in U.S.-listed equity securities, consistent with the Amended CTA/CQ Plan. In this area, the Exchange believes that all SROs should have consistent rules to the extent possible in order to provide additional transparency and certainty to market participants and to avoid inconsistent outcomes that could cause confusion and erode market confidence. The proposed changes would ensure that all SROs handle the situations covered therein in a consistent manner and ensure that all trading centers handle a Regulatory Halt consistently. The Exchange understands that all other non- Primary Listing Markets intend to file proposals that are substantially similar to this proposal. The proposed change to Rule 2615(e) to align the rule with system functionality differs from Cboe EDGX. However, this difference will not impose a burden on intermarket competition because, on both Cboe EDGX and the Exchange, the order would never be eligible for execution.

The Exchange does not believe that its proposals concerning Operational Halts impose an undue burden on competition. Under the existing Rules, the Exchange already possesses discretionary authority to impose Operational Halts for various reasons, including because of an order imbalance or influx that causes another national securities exchange to impose a trading halt in a security.[39] As described earlier, the proposed Rule change clarifies and broadens the circumstances in which the Exchange may impose such Halts, and specifies procedures for both imposing and lifting them. The Exchange does not intend for these proposals to have any competitive impact whatsoever. Indeed, the Exchange expects that other exchanges

[36] *See* Rule 2600(b).

[37] *See supra* note 4.

[38] 15 U.S.C. 78f(b)(8).

[39] *See* Exchange Rule 2600(b).

will adopt, and some have already adopted, similar rules and procedures to govern operational halts, to the extent that they have not done so already.[40]

The Exchange does not believe that the proposed rule change imposes a burden on intramarket competition because the provisions apply to all market participants equally. In addition, information regarding the halting and resumption of trading will be disseminated using several freely accessible sources to ensure broad availability of information in addition to the SIP data and proprietary data feeds offered by the Exchange and other SROs that are available to subscribers. In addition, the declaration and timing of trading halts and the resumption of trading is designed to avoid any advantage to those who can react more quickly than other participants. The proposals encourage early and frequent communication among the SROs, SIPs and market participants to enable the dissemination of timely and accurate information.

B. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[41] and subparagraph (f)(6) of Rule 19b–4 thereunder.[42]

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)[43] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–PEARL–2026–27 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–PEARL–2026–27. 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–PEARL–2026–27 and should be submitted on or before July 14, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[44]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–12527 Filed 6–22–26; 8:45 am]

BILLING CODE 8011–01–P

[40] *See supra* note 4.

[41] 15 U.S.C. 78s(b)(3)(A)(iii).

[42] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[43] 15 U.S.C. 78s(b)(2)(B).

[44] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105717; File No. SR–PHLX–2026–39]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delete Obsolete Rule Text Regarding the Now-Completed Tick Size Pilot

June 17, 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 June 10, 2026, Nasdaq PHLX LLC (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delete obsolete rule text regarding the now-completed Tick Size Pilot.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/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

On May 6, 2015, the Commission approved the National Market System

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Plan to Implement a Tick Size Pilot.[3] The Tick Size Pilot ran for two years, starting in October 2016.[4] In order to implement the Tick Size Pilot, the Exchange adopted Equity 4, Rule 3317, which is titled ''Compliance with Regulation NMS Plan to Implement a Tick Size Pilot.'' [5] Given that the Tick Size Pilot has long since concluded, the Exchange proposes to delete this obsolete rule text, and instead reserve Rule 3317.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to promote just and equitable principles of trade because removing obsolete rule text regarding the Tick Size Pilot will serve to avoid confusion and provide clarity to market participants. Additionally, it is necessary and consistent with the public interest and the protection of investors to make this technical correction to the Exchange's rulebook at Equity 4 in order to avoid confusing the investing public with obsolete rule text in Rule 3317.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issue; instead, its purpose is to ensure that the Exchange's rulebook remains accurate and up to date.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 Act [8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9]

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–PHLX–2026–39 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–PHLX–2026–39. 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–PHLX–2026–39 and should be submitted on or before July 14, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Vanessa A. Countryman,

Secretary.

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[3] *See* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27514 (May 13, 2015) (''Order Approving the National Market System Plan To Implement a Tick Size Pilot Program by BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc., as Modified by the Commission, for a Two-Year Period'').

[4] *See https://www.sec.gov/data-research/tick-size-pilot-program.*

[5] *See* Securities Exchange Act Release No. 77458 (Mar. 28, 2016), 81 FR 18919 (Apr. 1, 2016) (''Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Rule 3317 To Implement the Regulation NMS Plan To Implement a Tick Size Pilot Program'') (File No. SR–Phlx–2016–39).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 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.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105715; File No. SR–CboeBZX–2026–054]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 14.11 Regarding Information Circular Requirements

June 17, 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 June 5, 2026, Cboe BZX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[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

Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change to: (1) amend the introductory paragraph of Rule 14.11(j) to add express cross-references to Rules 3.7 and 3.21; (2) delete Rule 14.11(j)(1) in its entirety, thereby removing the requirement that the Exchange distribute an information circular to Members prior to the commencement of trading in each UTP Derivative Security [3] that generally includes the same information as contained in the information circular approved by the listing exchange; (3) amend Rule 14.11(j)(2)(B) to require that any written description be provided in a form approved by the listing exchange; and (4) renumber Rules 14.11(j)(2) through (5) as Rules 14.11(j)(1) through (4), respectively. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/equities/regulation/rule_filings/bzx/*), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to eliminate the requirement that the Exchange distribute an information circular to Members prior to the commencement of trading in each UTP Derivative Security that generally includes the same information as contained in the information circular provided by the listing exchange as provided in Rule 14.11(j)(1). The Exchange also proposes to amend the introductory paragraph of Rule 14.11(j) to add express cross-references to Rules 3.7 and 3.21, as the existing references to those rules are being deleted from Rule 14.11(j)(1). The Exchange proposes to amend Rule 14.11(j)(2)(B) to require that any written description be provided in a form approved by the listing exchange.[4] Last, the Exchange proposes to renumber Rules 14.11(j)(2) through (5) as Rules 14.11(j)(1) through (4), respectively.

Rule 14.11(j) governs the trading of UTP Derivative Securities on the Exchange—securities listed on another national securities exchange that trade on the Exchange pursuant to unlisted trading privileges (''UTP''). Under current Rule 14.11(j)(1), the Exchange must distribute an information circular prior to the commencement of trading in each UTP Derivative Security that generally mirrors the information circular issued by the primary listing exchange, including: (a) the special risks of trading the Derivative Security; (b) the Exchange Rules that will apply to the Derivative Security, including Rule 3.7; (c) information about the dissemination of the value of the underlying assets or indexes; and (d) the risk of trading during the Early Trading Session (2:30 a.m.–8:00 a.m. Eastern Time), Pre-Opening Session (8:00 a.m.–9:30 a.m. Eastern Time) and the After Hours Trading Session (4:00 p.m.–8:00 p.m. Eastern Time) due to the lack of calculation or dissemination of the underlying index value, the Intraday Indicative Value (as defined in Rule 14.11(b)(3)(C)) or a similar value. The Exchange proposes to delete Rule 14.11(j)(1) in its entirety.

The information circular requirement is unnecessary because the primary listing exchange's information circular already provides Members with the same disclosures the Exchange would otherwise be required to produce. Members have access to the primary listing exchange's information circular prior to the commencement of UTP trading and may rely upon it for the same purposes.[5] The Exchange's issuance of a separate, duplicative circular therefore serves no independent investor protection function.

The Exchange also proposes to amend the introductory paragraph of Rule 14.11(j) to add express cross-references to Rule 3.7 (Recommendations to Customers) and Rule 3.21 (Customer Disclosures). Current Rule 14.11(j)(1) references both Rule 3.7 and the risk of trading outside of Regular Trading Hours addressed by Rule 3.21; because the Exchange proposes to delete Rule 14.11(j)(1) in its entirety, the Exchange is adding express cross-references to those rules in the introductory paragraph of Rule 14.11(j) to preserve their visibility in the context of UTP Derivative Securities. These rules already apply to Members by operation of the Exchange's rulebook. The cross-references are intended to make the applicable framework explicit in the context of UTP Derivative Securities. Rule 3.7 independently requires Members to ensure that any recommendation of a UTP Derivative Security is suitable for the customer based on the customer's investment profile, a standing obligation that applies regardless of whether the Exchange has issued a product-specific information circular. Similarly, Rule 3.21 independently requires Members to provide customers with a written disclosure of the risks of trading outside of Regular Trading Hours before accepting any order for execution during such sessions, a standing obligation not contingent on the Exchange's issuance of a product-specific information circular.

Because Rule 14.11(j)(1) has historically served as the mechanism through which the Exchange satisfies the notification obligation under Rule 14.11(j)(2)(B), deletion of Rule 14.11(j)(1) necessitates a conforming amendment to Rule 14.11(j)(2)(B). The Exchange proposes to amend Rule 14.11(j)(2)(B) to require that any written description be provided in a form approved by the listing exchange. The Exchange will notify Members by information circular that such written description will only be required when mandated by the listing exchange. This amendment is consistent with the broader purpose of the proposed rule change: where the listing exchange's information circular already provides Members with the information necessary to assess a UTP Derivative Security, a duplicative written description obligation serves no independent investor protection function. Members may rely on the listing exchange's information circular in the same manner and to the same effect.

Finally, the Exchange proposes to renumber existing Rules 14.11(j)(2) through (5) as Rules 14.11(j)(1) through (4), respectively.

[3] *See* Exchange Rule 1.5(ee).

[4] As further described below, the Exchange will notify Members of the written description requirement under Rule 14.11(j)(2)(B) by means of an information circular. Such written description will only be required when required by the listing exchange.

[5] Such information circulars are generally available on the primary listing market's website.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] 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 deletion of Rule 14.11(j)(1) is consistent with the Act because the primary listing exchange's information circular already provides Members with the same disclosures that the Exchange's information circular would contain. The investor protection functions historically served by the information circular requirement are independently addressed through the primary listing exchange's information circular and the Member-level obligations imposed by Rules 3.7 and 3.21, to which the Exchange proposes to add express cross-references in the introductory paragraph of Rule 14.11(j). The proposed amendment to Rule 14.11(j)(2)(B) ensures that where a written description is required, it is provided in a form approved by the listing exchange, thereby aligning the Exchange's requirements with those of the primary listing market. The Exchange will further notify Members by information circular that such written description will only be required when mandated by the listing exchange, ensuring that no duplicative obligation is imposed where the listing exchange has not determined one to be warranted. The renumbering of Rules 14.11(j)(2) through (5) as Rules 14.11(j)(1) through (4) is ministerial. For these reasons, the Exchange believes the proposed rule change is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change eliminates duplicative procedural obligations applicable to the Exchange in its capacity as a UTP trading venue. It does not alter the terms or conditions under which UTP Derivative Securities may be traded on the Exchange, impose any new requirements on Members, or affect the ability of any market participant to access the Exchange's markets. Members will continue to have access to the primary listing exchange's information circular prior to the commencement of UTP trading and may rely upon it for the same purposes as the Exchange's information circular. The proposed amendment to Rule 14.11(j)(2)(B) aligns the written description obligation with the primary listing market's requirements and does not impose any burden on Members beyond what the primary listing market itself requires. Accordingly, the Exchange does not believe the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6)[10] thereunder. 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; or (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)[12] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Exchange states that the proposed rule change eliminates duplicative procedural obligations applicable to the Exchange in its capacity as a UTP trading venue because the primary listing exchange's information circular already provides Members with the same disclosures the Exchange would otherwise be required to produce.[15] The Exchange also notes that the proposed rule change does not alter the terms or conditions under which UTP Derivative Securities may be traded on the Exchange. For these reasons, the Commission finds that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange 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.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] The Exchange represents that such information circulars are generally available on the primary listing market's website. *See supra* note 5.

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2026–054 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2026–054. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2026–054 and should be submitted on or before July 14, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–12520 Filed 6–22–26; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12) and (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105714; File No. SR–MSRB–2026–01]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of a Proposed Rule Change To Amend MSRB Rule G–12(c) To Codify and Retire or Revise Certain Existing Interpretive Guidance on Confirmation Requirements for Those Inter-Dealer Municipal Securities Transactions That are Ineligible for Automated Comparison

June 17, 2026.

I. Introduction

On May 1, 2026, the Municipal Securities Rulemaking Board (''MSRB'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rule G–12 (''Rule G–12''), on uniform practice, to codify into rule language and to retire or revise existing interpretive guidance on confirmation requirements for those inter-dealer municipal securities transactions between two brokers, dealers or municipal securities dealers (collectively, ''dealers'') that are ineligible for automated comparison at a registered clearing agency, as well as to retire or revise other related interpretive guidance and to make technical amendments (collectively, the ''proposed rule change'').[3]

The MSRB will announce the effective date of the proposed rule change, including the retirement and revision of the related interpretive guidance in a regulatory notice to be published on the MSRB website no later than 90 days following this approval.[4] The effective date will be no later than one year following this approval.[5] The MSRB has indicated that the effective date of the proposed rule change will occur simultaneously with the retirement and revision of the related interpretive guidance.

The proposed rule change was published for comment in the **Federal Register** on May 7, 2026.[6] The public comment period closed on May 28, 2026, and no comment letters were received on the proposed rule change. As described further below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

A. Background

Section (c) of Rule G–12 sets forth the confirmation requirements for inter-dealer municipal securities transactions that are ineligible for automated comparison in a system operated by a registered clearing agency,[7] also referred to herein as ''inter-dealer confirmations.'' [8] According to the MSRB, since the original adoption of Rule G–12(c) in 1977, Rule G–12 has requirements for the exchange and comparison of trade confirmations by dealers in inter-dealer transactions.[9] Rule G–12(c) outlines a list of content requirements related to inter-dealer confirmations that, according to the MSRB, are analogous in scope to the content requirements for customer confirmations listed in pre-1990s iterations of section (a) of MSRB Rule G–15 (''Rule G–15''), on customer confirmations.[10]

According to the MSRB, a small number of inter-dealer trades remain subject to the confirmation requirement of Rule G–12(c), predominantly due to their ineligibility for CUSIP number assignment.[11] Nonetheless, market participants are contemplating new technological approaches that allow digitization and electronic record keeping of security ownership without the need for a traditional bond certificate and other aspects that would make such securities ineligible for the existing automated comparison and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 34–105362 (May 4, 2026), 91 FR 24919 (May 7, 2026) (File No. SR–MSRB–2026–01) (''Notice'').

[4] *See* Notice, 91 FR at 24919.

[5] *See id.*

[6] *See id.*

[7] *See* Notice, 91 FR at 24919. A list of registered clearing agencies is available at *https://www.sec.gov/about/divisions-offices/division-trading-markets/clearing-agencies.* Currently, registered clearing agencies active in the municipal securities market consist of the Depository Trust & Clearing Corporation and its affiliates.

[8] *See* Notice, 91 FR at 24919–20. Rule G–12(a) exempts inter-dealer transactions in municipal securities submitted to a registered clearing agency for comparison from the inter-dealer confirmation provisions of Rule G–12(c), since the purposes of transaction confirmations are subsumed within the automated comparison process as provided in Rule G–12(f)(i).

[9] *See* Notice, 91 FR at 24920. *See also* Order Approving Proposed Rule Change, Exchange Act Release No. 13939 (Sept. 8, 1977), 42 FR 46445 (Sept. 15, 1977) (File No. SR–MSRB–76–12).

[10] *See* Notice, 91 FR at 24920.

[11] *See* Notice, 91 FR at 24920 According to the MSRB, from 2020 to 2025, an annual average of 2,447 new municipal securities were issued without assigned CUSIP numbers, so that any inter-dealer trades in such securities would be ineligible for automated comparison and would therefore be subject to Rule G–12(c). *See id.*

would therefore be subject to Rule G–12(c).[12] The MSRB believes that, given these recent technological innovations, it is timely to ''update and streamline'' Rule G–12(c).[13]

On September 28, 2023, the MSRB issued a Request for Comment, soliciting feedback from stakeholders on draft amendments to MSRB Rule G–12.[14] The MSRB received one letter in response to the RFC,[15] and the MSRB represents that it subsequently held a virtual meeting on May 2, 2024 with the commenter and representatives of its members to discuss the ''suggestions and concerns'' voiced in that letter.[16] On July 26, 2024, the MSRB's board of directors approved ''codifying certain interpretive guidance pertaining to inter-dealer trade confirmations into [Rule G–12(c)] and consolidating remaining guidance into FAQs.''[17]

B. Summary of the Proposed Rule Change

As discussed below and in the Notice, the proposed rule change would amend Rule G–12 to codify into rule language and to retire or revise existing interpretive guidance on confirmation requirements for those dealers that are ineligible for automated comparison at a registered clearing agency, as well as to retire or revise other related interpretive guidance and to make technical amendments.[18] In summary, the proposed rule change would:

- Codify principles from MSRB interpretive guidance into the rule text and reorganize the content of Rule G–12(c);[19]
- Remove certain existing requirements from current Rule G–12(c);[20]
- Make technical modifications to the rule requirements under Rule G–12(c), including amending current Rule G–12(c)(vi) to replace it with a new definition section;[21]
- Retire certain guidance that is being codified or is already codified in current Rule G–12(c) or noted under other MSRB rules;[22] and
- Amend and retain certain interpretive guidance relevant to Rule G–12 and Rule G–15 and retire certain other guidance.[23]

Codification of Certain Principles From Existing Interpretive Guidance and Reorganization of Rule G–12(c)

The proposed rule change would codify certain principles of existing MSRB interpretive guidance and reorganize the content of Rule G–12(c)(v)–(vi).[24] According to the MSRB, the proposed rule change would not impose any new requirements and would eliminate obsolete or superfluous requirements.[25] The proposed rule change would organize informational elements required to be disclosed in a transaction subject to Rule G–12(c) into three categories, with the first covering securities transaction information, set forth in proposed Rule G–12(c)(v)(A), and the second covering securities identification information, set forth in proposed Rule G–12(c)(v)(B).[26] The proposed rule change would also add, in proposed Rule G–12(c)(v)(C), a third category of additional securities information beyond the information noted under the securities transaction and securities identification category that, in limited circumstances, may be necessary to ensure that the counterparties are in agreement as to the fundamental terms of an inter-dealer transaction and to the identity of the specific security being transacted.[27] The items of information that would be required to be included on an inter-dealer confirmation in these three categories pursuant to proposed amended Rule G–12(c) are described below.

Securities Transaction Information

The proposed rule change would codify certain elements consisting of securities transaction information into Rule G–12(c)(v)(A).[28] The following securities transaction information would be required to be disclosed under the proposed rule change.

- The confirming party's name (that is, the name of the dealer producing the confirmation) and its contact information;[29]
- The contra party's identification (that is, the name of the dealer with whom the confirming dealer is engaging in a transaction ineligible for automated comparison);[30]
- Designation of whether the transaction is a purchase from or sale to the contra party;[31]
- Par value of the securities;[32]
- Trade date;[33]
- Settlement date;[34]
- Yield and dollar price, to be computed and shown as follows:[35]

[12] *See* Notice, 91 FR at 24920.

[13] *See id.*

[14] *See* MSRB Notice 2023–08, Request for Comment on Retrospective Rule Review of Rule G–12(c) on Inter-Dealer Confirmations and Related Interpretive Guidance (Sep. 28, 2023) (''RFC''), available at *https://www.msrb.org/sites/default/files/2023-09/2023-08.pdf.* The draft amendments to Rule G–12 outlined in the RFC would have codified certain existing interpretive guidance pertaining to confirmation disclosure requirements for inter-dealer municipal securities transactions that are ineligible for automated comparison into existing Rule G–12(c); made certain clarifying amendments to the rule text to reorganize the rule; and retired certain guidance that would be codified or were already codified in current MSRB rules or that would be consolidated into frequently asked questions (FAQs) pertaining to Rule G–12(c), Rule G–15, on customer confirmations, and other MSRB rules. *See* RFC at 1.

[15] Letter from Securities Industry and Financial Markets Association, dated December 15, 2023 (the ''SIFMA Letter''), available at *https://www.msrb.org/sites/default/files/2023-12/SIFMA-Comment-Letter-2023-08.pdf.*

[16] *See* Notice, 91 FR at 24927, note 71. The MSRB also addressed the SIFMA Letter in the Notice. *See* Notice, 91 FR at 24927–28.

[17] *See* MSRB, MSRB Approves FY 2025 Budget, Elects Board Leadership and Advances Strategic Priorities at Quarterly Board Meeting (July 26, 2024), available at *https://www.msrb.org/Press-Releases/MSRB-Approves-FY-2025-Budget-Elects-Board-Leadership-and-Advances-Strategic.*

[18] *See* Notice, 91 FR at 24919–24.

[19] *See* Notice, 91 FR at 24921–23.

[20] *See* Notice, 91 FR at 24923.

[21] *See* Notice, 91 FR at 24923–24.

[22] *See* Notice, 91 FR at 24923. The MSRB stated that it will publish a regulatory notice that sets forth a list of each item of interpretive guidance that would be amended or retired in connection with the proposed rule change, following this approval. *See* Notice, 91 FR at 24921.

[23] *See* Notice, 91 FR at 24924.

[24] *See* Notice, 91 FR at 24921–23.

[25] *See* Notice, 91 FR at 24921.

[26] *See id.*

[27] *See id.*

[28] *See* Notice, 91 FR at 24921–22. Proposed Rule G–12(c)(v)(A) would include informational elements currently described in Rule G–12(c)(v)(A)–(D), G–12(c)(v)(G)–(N) and in the additional language following Rule G–12(c)(v)(N). *See* Notice, 91 FR at 24921, note18.

[29] *See* Notice, 91 FR at 24921. Under the proposed rule change, existing Rule G–12(c)(v)(A) would be redesignated as Rule G–12(c)(v)(A)(1) and would be modified to allow for address, telephone number or other information providing reasonable means of contacting the confirming party. *See* Notice, 91 FR at 24921, note 19.

[30] *See* Notice, 91 FR at 24921. Existing Rule G–12(c)(v)(B) would be redesignated as Rule G–12(c)(v)(A)(2) without substantive change. *See* Notice, 91 FR at 24921, note 20.

[31] *See* Notice, 91 FR at 24921. Existing Rule G–12(c)(v)(C) would be redesignated as Rule G–12(c)(v)(A)(3) without substantive change. *See* Notice, 91 FR at 24921, note 21.

[32] *See* Notice, 91 FR at 24921. Existing Rule G–12(c)(v)(D) would be redesignated as Rule G–12(c)(v)(A)(4) and the proposed rule change would further state that, for zero coupon securities, the maturity value of the securities must be shown if it differs from the par value, thus incorporating language currently in the second paragraph following Rule G–12(c)(v)(N), which would be deleted as part of the proposed rule change. *See* Notice, 91 FR at 24921, note 22.

[33] *See* Notice, 91 FR at 24921. Existing Rule G–12(c)(v)(G) would be redesignated as Rule G–12(c)(v)(A)(5) without substantive change. *See* Notice, 91 FR at 24921, note 23.

[34] *See* Notice, 91 FR at 24921. Existing Rule G–12(c)(v)(H) would be redesignated as Rule G–12(c)(v)(A)(6) and would state that initial confirmations for ''when, as and if issued'' transactions are excepted from this disclosure requirement, thus incorporating language currently in the third paragraph following Rule G–12(c)(v)(N), which paragraph would be deleted as part of the proposed rule change. *See* Notice, 91 FR at 24921, note 24.

[35] *See* Notice, 91 FR at 24921–22. Existing Rule G–12(c)(v)(I) would be redesignated as Rule G–12(c)(v)(A)(7) and would codify guidance noted in

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○ For transactions effected on the basis of yield to maturity, yield to call date, or yield to put date, proposed Rule G–12(c)(v)(A)(7)(a) would require that the yield at which the transaction was effected be shown and, if that yield is to a call or put date, this must be noted, along with the date and dollar price of the call or put date;[36]

○ For transactions effected on the basis of dollar price, proposed Rule G–12(c)(v)(A)(7)(b) would require that a dollar price at which the transaction was effected be shown and, unless the transaction was effected at par, a yield be computed and shown;[37]

○ Proposed Rule G–12(c)(v)(A)(7)(c)(i) would specify that yield shown on confirmations must be computed to the lower of call date or maturity date (instead of lowest of price to call, price to par option, or price to maturity, as stated in current Rule G–12(c)(v)(I)).[38] For purposes of computing yield to call or dollar price to call, proposed Rule G–12(c)(v)(A)(7)(c)(ii)[39] would limit call features that may be used to only those call features that represent ''in whole calls'' of the type that may be used by the issuer without restriction in a refunding.[40] Proposed Rule G–12(c)(v)(A)(7)(c)(iii) would codify the computation and content requirements applicable to securities subject to a series of pricing calls at declining premiums, securities that, at the time of trade, are subject to a notice of a pricing call at any time, and additional requirements for zero coupon securities.[41] Proposed Rule G–12(c)(v)(A)(7)(c)(iv) would require all yield and dollar price computations to be made in accordance with MSRB Rule G–33, on calculations (''Rule G–33'');[42]

○ Proposed Rule G–12(c)(v)(A)(7)(d) would not require yield to be shown for securities traded on a discounted basis and would not require dollar price to be shown for when-issued trades.[43] These exceptions would be incorporated from the first and third paragraphs following existing Rule G–12(c)(v)(N).[44]

- Amount of concession;[45]
- Final monies;[46] and
- Delivery of securities.[47]

Securities Identification Information

The proposed rule change would codify certain informational elements consisting of securities identification information into proposed Rule G–12(c)(v)(B).[48] The proposed rule change would require inter-dealer confirmations to include the following elements of securities identification information.

- The name of the issuer;[49]
- A securities identifier, if any, such as a CUSIP number or an alternative securities identifier that is mutually agreed upon between two parties;[50]
- Maturity date;[51]
- Interest rate;[52] and,
- Dated date.[53]

Securities Additional Information

The proposed rule change would move and modify language from existing Rule G–12(c)(vi)(I) to proposed new Rule G–12(c)(v)(C), which would retain the requirement that the confirmation include any additional information necessary to ensure that the parties agree to the details of the transaction, beyond the information that would be required under proposed Rule G–12(c)(v)(A), and would add reference to ensuring that the parties have uniquely identified the specific securities being transacted, beyond the information that would be required under proposed Rule G–12(c)(v)(B).[54] Although the MSRB expects that such additional information would only rarely be needed, the MSRB believes that such additional information about the securities at certain times may be necessary particularly where no CUSIP number or other alternative identifier has been assigned to the securities and/or where some event or change to the securities gives rise to the need to distinguish the subject securities from other securities that previously were fully fungible but which have become no longer fungible.[55]

Amendments To Remove Certain Existing Requirements

The proposed rule change would remove current rule text pertaining to confirmation requirements that are primarily of a descriptive nature and are neither securities transaction information nor securities identification information.[56] The proposed rule change would also retire certain pieces of MSRB interpretive guidance currently memorializing such requirements.[57] The proposed rule change would remove the following confirmation requirements, which pertain to securities descriptive information.

- Credit backing (from current Rule G–12(c)(v)(E));[58]
- Features of securities (from current Rule G–12(c)(vi)(B), (E) and (G));[59]
- Status of securities (from current Rule G–12(c)(vi)(H));[60] and
- Tax information (from current Rule G–12(c)(vi)(C) and (D)).[61]

The MSRB stated that removing such requirements from inter-dealer confirmations would have no impact on whether dealers selling municipal securities in an inter-dealer transaction with features that would have been subject to confirmation disclosures under the current language of Rule G–12(c) must still comply with their obligations under other MSRB rules.[62]

Addition of a New Definition Section and Other Technical Amendments to the Rule

The proposed rule change would add a definition section to Rule G–12(c) and reorganize and compile relevant definitions within the proposed rule text.[63] The new definitions section would include the terms ''stepped coupon securities,'' ''zero coupon securities,'' ''stripped coupon securities'' and ''pricing call,'' codified as Rule G–12(c)(vi)(A)–(D).[64]

certain pieces of interpretive guidance. *See* Notice, 91 FR at 24921, note 25.

[36] *See* Notice, 91 FR at 24921. Proposed Rule G–12(c)(v)(A)(7)(a) would repurpose some text from current Rule G–12(c)(v)(I) and codify language noted in certain MSRB interpretive guidance. *See* Notice, 91 FR at 24921, note 26.

[37] *See* Notice, 91 FR at 24921.

[38] *See id.*

[39] *See* Notice, 91 FR at 24921–22.

[40] *See* Notice, 91 FR at 24921, note 27 and accompanying text.

[41] *See* Notice, 91 FR at 24922, notes 28–30 and accompanying text.

[42] *See* Notice, 91 FR at 24922, note 31 and accompanying text.

[43] *See* Notice, 91 FR at 24922, note 32 and accompanying text.

[44] *See id.*

[45] *See* Notice, 91 FR at 24922, note 33 and accompanying text.

[46] *See* Notice, 91 FR at 24922, note 34 and accompanying text.

[47] *See* Notice, 91 FR at 24922, note 35 and accompanying text.

[48] *See* Notice, 91 FR at 24922. Proposed Rule G–12(c)(v)(B) would largely consist of text from Rule G–12(c)(v)(E), (v)(F) and (vi)(A) and would also consolidate related text that appears in paragraphs between Rule G–12(c)(v) and (vi). *See* Notice, 91 FR at 24922, note 36.

[49] *See* Notice, 91 FR at 24922, note 37 and accompanying text.

[50] *See* Notice, 91 FR at 24922, note 38 and accompanying text.

[51] *See* Notice, 91 FR at 24922, note 39 and accompanying text.

[52] *See* Notice, 91 FR at 24922, note 40 and accompanying text.

[53] *See* Notice, 91 FR at 24922, note 41 and accompanying text.

[54] *See* Notice, 91 FR at 24922–23.

[55] *See id.*

[56] *See* Notice, 91 FR at 24923.

[57] *See id.* The MSRB stated that it will publish a full list of interpretive guidance that would be retired pursuant to this proposed rule change by no later than 90 days from the approval date of this proposed rule change. *See* Notice, 91 FR at 24923, note 43.

[58] *See* Notice, 91 FR at 24923.

[59] *See id.*

[60] *See id.*

[61] *See id.*

[62] *See id.*

[63] *See id.*

[64] *See id.*

Additionally, the proposed rule change would implement certain technical amendments to Rule G–12 as noted below:

- The proposed rule change would update certain internal cross references relating to the delivery of securities in Rule G–12(e)(ii),[65] on securities delivered, and Rule G–12(e)(iii),[66] on delivery ticket. The proposed rule change would also update Rule G–12(e)(v), on units of delivery under delivery of securities, to remove a separate reference to information regarding denomination of certificates to be delivered in case of bearer bonds since bearer bonds are no longer issued in the primary municipal securities market and any outstanding bearer bonds could be delivered in the same denominations applicable generally to municipal securities.[67]
- The proposed rule change would also update internal cross-references under Rule G–12(g)(i) and (ii), on the reclamation requirements, from subparagraph (c)(v)(E) to paragraph (v)(B)(1)–(3) of section (c) of this rule.[68]

Retirement of Interpretive Guidance Codified in the Proposed Rule Text and Amendment of Certain Interpretive Guidance

As discussed above, the proposed rule change would amend Rule G–12(c) not only through reorganization of existing rule text but also through the codification of certain pieces of related MSRB interpretive guidance.[69] The proposed rule change would retire such interpretive guidance in whole or have the relevant portions modified or removed in light of the incorporation of such requirements into the rule language.[70]

The proposed rule change would fully retire MSRB Interpretive Guidance, Confirmation Disclosure Requirements for Callable Municipal Securities (Feb. 20, 1986), pertaining to confirmation of disclosure requirements for callable municipal securities, since the requirements of Rule G–12(c), as amended by the proposed rule change, would codify the confirmation requirements set forth therein.[71]

In addition, the proposed rule change would amend five other pieces of MSRB interpretive guidance to modify certain rule references to reflect current rule language, including the new language of Rule G–12(c) under the proposed rule change, or to remove portions of such guidance that would be codified by the proposed rule change, that have previously been codified into MSRB rules, or that address outdated practices that are no longer relevant in the market, with the remaining portions of such guidance continuing to be in effect:

- MSRB Interpretive Guidance, Yield Disclosures: Yields to Call on Zero Coupon Bonds (Jan. 4, 1984), which would be amended to conform a reference to Rule G–12 to the appropriate portion of the rule (as it would be modified by the proposed rule change) and a parallel reference to Rule G–15 to the appropriate current provision of that rule, as well as to make a minor language change to reflect current rule language; [72]
- MSRB Interpretive Guidance, Confirmation Requirements for Partially Refunded Securities (Aug. 15, 1989), which would be amended to remove references to Rule G–12, to conform references to Rule G–15 to the appropriate current provisions of that rule, and to remove references to retired guidance; [73]
- MSRB Interpretive Guidance, Notice of Interpretation on Escrowed-to-Maturity Securities: Rules G–17, G–12 and G–15 (Sep. 21, 1987), which would be amended to delete the first and last sections of the guidance so that the guidance would only apply to issues under MSRB Rule G–17 (''Rule G–17''), on conduct of municipal securities and municipal advisory activities; [74]
- MSRB Interpretive Guidance, Notice Concerning Stripped Coupon Municipal Securities (Mar. 13, 1989), which would be amended by removing language in the guidance pertaining to the confirmation requirements under Rules G–12 and G–15 for transactions in stripped coupon municipal securities which either were previously incorporated into Rule G–15 and/or would be codified into Rule G–12(c) pursuant to the proposed rule change; [75]
- MSRB Interpretive Guidance, Calculation of Price and Yield on Continuously Callable Securities (Aug. 15, 1989), which would be amended to conform a reference to Rule G–12 to the appropriate portion of the rule (as it would be modified by the proposed rule change) and a parallel reference to Rule G–15 to the appropriate current provision of that rule.[76]

III. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change. The Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the MSRB.

In particular, the Commission finds that the proposed rule change is consistent with the provisions of Section 15B(b)(2)(C) of the Exchange Act,[77] which provides that the MSRB's rules shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest. The Commission believes that the proposed rule change will foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitate transactions in municipal securities by streamlining the current rule requirements regarding the exchange and comparison of key information for transactions that are ineligible for automated comparison.[78] The Commission also believes that the

[65] *See* Notice, 91 FR at 24923. The proposed rule change would update internal cross-references under subparagraph (e)(ii)(A) from current rule language pertaining to paragraph (c)(v) and (c)(vi) to information now set forth in subparagraph (v)(B) of section (c) of this rule and would remove certain text under Rule G–12(e)(ii)(B). *See* Notice, 91 FR at 24923, note 45.

[66] *See* Notice, 91 FR at 24923. The proposed rule change would update internal cross-references under subparagraph (e)(iii) from current rule language pertaining to information set forth in subparagraph (c)(v) and (vi) to information now reflected under paragraph (v) of section (c) of this rule except the information set forth in items (3), (7), (8) and clauses (b) and (d) of item (9) of subparagraph (c)(v)(A) thereof. *See* Notice, 91 FR at 24923, note 46.

[67] *See* Notice, 91 FR at 24923.

[68] *See id.*

[69] *See* Notice, 91 FR at 24924.

[70] *See id.*

[71] *See id.*

[72] *See* Notice, 91 FR at 24924. Specifically, a reference to former Rule G–15(a)(i)(I) would be changed to current Rule G–15(a)(i)(A)(5), an older reference to the Rule G–15 text would be removed, and a reference to current Rule G–12(c)(v)(I) in a footnote would be changed to proposed new rule text under Rule G–12(c)(v)(A)(7). *See* Notice, 91 FR at 24924, note 50.

[73] *See* Notice, 91 FR at 24924, note 52 and accompanying text.

[74] *See* Notice, 91 FR at 24924, note 54 and accompanying text.

[75] *See* Notice, 91 FR at 24924, note 56 and accompanying text.

[76] *See* Notice, 91 FR at 24924. Specifically, a reference to current Rule G–12(c)(v)(I) would be changed to proposed new Rule G–12(c)(v)(A)(7)(c), and a reference to former Rule G–15(a)(v)(I) would be changed to current Rule G–15(a)(i)(A)(5)(c). *See* Notice, 91 FR at 24924, note 58.

[77] 15 U.S.C. 78o–4(b)(2)(C).

[78] *See* Notice, 91 FR at 24924–25.

proposed rule change will remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products because it clarifies the requirements of Rule G–12(c) applicable to inter-dealer transactions in digital, tokenized, and other municipal securities that do not have CUSIP numbers.[79]

The Commission further believes that the proposed rule change will prevent fraudulent and manipulative acts and practices, and protect investors, municipal entities, obligated persons, and the public interest, because clarifying the required informational elements and consolidating guidance into the rule text and retiring outdated guidance will facilitate compliance by dealers with their requirements under Rule G–12(c), thus making it more likely that customers receive key securities and transaction information.[80]

The Commission also finds that the proposed rule change is consistent with the provisions of Section 15B(b)(2)(C) of the Exchange Act,[81] which requires that MSRB rules not be designed to impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Commission finds that the proposed rule change would not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act because the proposed rule change applies equally to *all* dealers who engage in transactions subject to Rule G–12(c).[82] Additionally, the proposed rule change would apply a uniform standard for information required to be provided under Rule G–12(c).[83]

In approving the proposed rule change, the Commission has also considered the proposed rule change's impact on efficiency, competition, and capital formation under Section 3(f) of the Exchange Act.[84] The Commission finds that the record for the proposed rule change does not contain any information to indicate that the proposed rule change would have a negative impact on efficiency, competition, or capital formation.[85] In fact, the proposed rule change could promote market efficiency and capital formation by clarifying the requirements of Rule G–12(c) applicable to inter-dealer transactions in digital, tokenized, or other municipal securities that do not have CUSIP numbers.[86]

For the reasons noted above, the Commission finds that the proposed rule change is consistent with the Exchange Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[87] that the proposed rule change (SR–MSRB–2026–01) be, and hereby is, approved.

For the Commission, pursuant to delegated authority.[88]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–12526 Filed 6–22–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105720; File No. SR–NYSEARCA–2026–65]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 1 To Require OTP Holders and OTP Firms To Review Customer Activity on a Monthly Basis

June 17, 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 June 10, 2026, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to change the review period in which Options Trading Permit (''OTP'') Holders and OTP Firms are required to determine whether orders that are not for a Broker/Dealer should be represented as ''Professional Customer.''[4] 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 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

OTP Holders and OTP Firms are required to review their customers' activity on at least a quarterly basis to determine whether orders that are not for the account of a Broker/Dealer should be represented as Professional Customer orders.[5] Orders for any non-Broker/Dealer that had an average of more than 390 orders per day during any calendar month (within the quarterly review period) must be represented as Professional Customer.[6] OTP Holders and OTP Firms are required to make any appropriate changes to the way in which they are representing orders within five days after the end of the calendar quarter.[7]

The Exchange proposes to amend the Rule 1 definition of Customer and Professional Customer by adding language to require that OTP Holders and OTP Firms review their Customers' activity on a monthly basis to determine whether orders that are not for a Broker or Dealer should be represented as Professional Customer and make any

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[79] *See* Notice, 91 FR at 24920–23.

[80] *See* Notice, 91 FR at 24925.

[81] 15 U.S.C. 78o–4(b)(2)(C).

[82] *See* Notice, 91 FR at 24925.

[83] *See* Notice, 91 FR at 24927.

[84] *See* 15 U.S.C. 78c(f).

[85] *See* 15 U.S.C. 78c(f).

[86] *See* Notice, 91 FR at 24920–23.

[87] 15 U.S.C. 78s(b)(2).

[88] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] For options traded on the Exchange, the term ''Customer'' does not include a broker or dealer and, unless otherwise specified, includes a ''Professional Customer.'' For options traded on the Exchange, the term ''Professional Customer'' means an individual or organization that (i) is not a broker or dealer, as defined Sections 3(a)(4) and 3(a)(5) of the Exchange Act and rules thereunder, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Rule 1. Definitions. The manner in which a Professional Customer order is calculated is specified in subparagraphs (a) through (c) of the Rule 1 definition.

[5] *See* supra [sic], December 2, 2014, Trader Update and NYSE Regulation, Inc. Joint Regulatory Bulletin, NYSE Arca RBO–15–03 ''Professional Customer Orders'' (September 9, 2015) (''NYSE Arca RBO–15–03'').

[6] Id.

[7] Id.

appropriate changes to the way in which they are representing such orders within five days after the end of the calendar month rather than five days after the end of the calendar quarter.

Determining whether a Customer has executed more than 390 orders per day during a month within a calendar quarter requires computing a daily average. As such, OTP Holders and OTP Firms should already be performing the workflow necessary to designate orders on a daily basis. Therefore, the proposal does not increase the current workflow. Rather, the proposal merely shortens the time in which OTP Holders and OTP Firms are required to make changes to the way in which they are representing the orders from five days after the end of each calendar quarter to five days after the end of each calendar month.

The Exchange does not believe that this amendment is a significant departure from the current practice, nor does it impose any burden on any OTP Holder or OTP Firm because each broker-dealer is currently required to perform the necessary calculation daily to arrive at the requisite average. Further, in addition to the calculation, broker-dealers are subject to know-your-customer and suitability requirements under FINRA Rules 2090 (Know Your Customer) and 2111 (Suitability) and would need to consider whether a Customer meets the Professional Customer designation for purposes of determining best execution and making appropriate recommendations.

The Exchange believes that a calendar month is sufficient time to determine whether the activity of a Customer meets the criteria for a Professional Customer order. The Exchange believes that the shortened time period will ensure that the spirit of the designation of Professional Customer order is met in that OTP Holders and OTP Firms will make any appropriate changes in how they are representing orders in a 30-day timeframe as opposed to a 90-day timeframe, thereby ensuring the designation is applied in a more expeditious manner.

The Exchange continues to believe that identifying Professional Customer orders based upon the average number of orders entered in qualified accounts is an appropriate and objective approach to reasonably distinguish such persons and entities from retail investors or other market participants.

Implementation

The Exchange proposes implementing this rule change on July 1, 2026. The Exchange will issue a Trader Update to provide notice to OTP Holders and OTP Firms of the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. In addition, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5)[10] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposal to shorten the quarterly look-back to a monthly look-back is consistent with the Act because it will ensure that the spirit of the designation of Professional Customer order continues to be met, only on a more expedited basis—removing a potential delay of two months before affecting a change in the designation. The Exchange believes that this amendment will remove impediments to and perfect the mechanism of a free and open market and a national market system by promoting the consistent application of its rules and shortening the timeframe to change the designation for all OTP Holders and OTP Firms while continuing to provide a sufficient time period to determine whether the activity of a Customer meets the criteria for a Professional Customer order. Further, the Exchange believes that the shortened time period will continue to promote consistency in the treatment of orders as Professional Customer orders.

As noted above, OTP Holders and OTP Firms are required to review their Customers' activity on at least a quarterly basis to determine whether orders that are not for the account of a Broker/Dealer should be represented as Professional Customer orders.[11] Orders for any non-Broker/Dealer that had an average of more than 390 orders per day during any calendar month (within the quarterly review period) must be represented as Professional Customer.[12] OTP Holders and OTP Firms are required to make any appropriate changes to the way in which they are representing orders within five days after the end of the calendar quarter.[13]

Determining whether a Customer has executed more than 390 orders per day during a month requires computing a daily average. As such, OTP Holders and OTP Firms should already be performing the workflow necessary to designate orders on a daily basis. Therefore, the proposal does not increase the current workflow. Rather, the proposal merely shortens the time in which OTP Holders and OTP Firms are required to make changes to the way in which they are representing the orders from five days after the end of each calendar quarter to within five days after the end of each calendar month.

The Exchange does not believe that this amendment is a significant departure from the current rule, nor does it impose any burden on any OTP Holder or OTP Firm because each broker-dealer is currently required to perform the necessary calculation daily to arrive at the requisite average. Further, in addition to the calculation, broker-dealers are subject to know-your-customer and suitability requirements under FINRA Rules 2090 (Know Your Customer) and 2111 (Suitability) and would need to consider whether a Customer meets the Professional Customer designation for purposes of determining best execution and making appropriate recommendations.

The Exchange notes that the trading behavior of a Customer can be distinguished from that of a Professional Customer which is the purpose of the separate designations. The Exchange continues to believe that identifying Professional Customer orders based upon the average number of orders entered in qualified accounts is an appropriately objective approach to reasonably distinguish such persons and entities from retail investors or market participants. One marketplace advantage afforded to Customer orders on the Exchange is that members are, in some instances, assessed lower transaction fees and are entitled to credits for the execution of Customer orders. The purpose of these marketplace advantages is to attract retail order flow to the Exchange by leveling the playing field for retail investors over market professionals. This proposal will continue to provide Customer accounts with marketplace advantages and distinguish the accounts of non-professional retail investors from the Professional Customer accounts. The Exchange notes that some non-broker-

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(5).

[11] *See* supra, December 2, 2014, Trader Update and NYSE Arca RBO–15–03.

[12] Id.

[13] Id.

dealer individuals and entities have access to information and technology that enables them to professionally trade listed options in the same manner as a broker or dealer in securities.

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.

Specifically, the Exchange does not believe that the proposed rule change will impose any burden on intra-market competition because, today, each OTP Holder and OTP Firm is required to monitor Customer orders to determine if the Customer has averaged more than 390 orders per day during a month. Determining whether a Customer has executed more than 390 orders per day during a month requires computing a daily average. As such, OTP Holders and OTP Firms should already be performing the workflow necessary to designate orders on a daily basis. Therefore, the proposal does not increase the current workflow. Rather, the proposal merely amends the timeframe to change how the Customer's order is being represented from five days after the end of each calendar quarter to five days after the end of each calendar month. The Exchange does not believe that this amendment is a significant departure from the current rule, nor does it impose any burden on any OTP Holder or OTP Firm because each broker-dealer is already required to perform the necessary calculation daily to arrive at the requisite average.

Further, in addition to the calculation, broker-dealers are subject to know-your-customer and suitability requirements under FINRA Rules 2090 (Know Your Customer) and 2111 (Suitability) and would need to consider whether a Customer meets the professional designation for purposes of determining best execution and making appropriate recommendations. The Exchange notes that the trading behavior of a Customer can be distinguished from that of a Professional Customer which is the purpose of the separate designations.

Finally, the Exchange notes that Nasdaq ISE, LLC has adopted a similar rule and other options exchanges may choose to file similar proposals with the Commission to change the time in which its members are required to review and determine whether orders should be represented as Professional Customer.

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

Pursuant to Section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6)[15] 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.[16]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[17] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay so that the proposal can become effective upon filing. The Exchange states that the proposal would not increase the current workflow imposed on OTP Holders and OTP Firms, but instead would shorten the time (from quarterly to monthly) within which OTP Holders and OTP Firms are required to make changes with respect to how they represent orders. Further, the Exchange states that the proposal is not a significant departure from the current requirements and OTP Holders and OTP Firms will continue, as they do today, to perform the requisite daily calculation to determine whether Customer orders should be designated as Professional Customer. Further, the Exchange states that the shortened time period will promote consistency in the treatment of orders as Professional Customer orders. For these reasons, and because the proposal does not raise any 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 hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[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.

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–NYSEARCA–2026–65 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–NYSEARCA–2026–65. 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.

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] 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 requested waiver of the five-day prefiling requirement for this proposal for the reasons stated in its filing, which the Commission hereby grants.

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

All submissions should refer to file number SR–NYSEARCA–2026–65 and should be submitted on or before July 14, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–12531 Filed 6–22–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105723; File No. SR–NASDAQ–2026–016]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Shares of the VanEck JitoSOL ETF Under Nasdaq Rule 5711(d) (Commodity-Based Trust Shares)

June 17, 2026.

I. Introduction

On March 10, 2026, the Nasdaq Stock Market LLC (''Exchange'') 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 (''Shares'') of the VanEck JitoSOL ETF (''Trust'') under Nasdaq Rule 5711(d) (Commodity-Based Trust Shares). The proposed rule change was published for comment in the **Federal Register** on March 20, 2026.[3]

On May 1, 2026, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] This order institutes proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.

II. Summary of the Proposal

As described in more detail in the Notice,[7] the Exchange proposes to list and trade the Shares of the Trust under Nasdaq Rule 5711(d), which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.

According to the Exchange, the investment objective of the Trust is to reflect the performance of the price of JitoSOL[8] less the expenses of the Trust's operations.[9] In seeking to achieve its investment objective, the Trust will only hold JitoSOL, cash, and cash equivalents, and will value its Shares daily based on the reported MarketVector JitoSol VWAP Close Index (''Index'').[10] The Trust is a passive investment vehicle that does not seek to pursue any investment strategy beyond reflecting the performance of the price of JitoSOL and any rewards from staking a portion of the Trust's JitoSOL.[11] The administrator determines the NAV of the Trust on each day that the Exchange is open for regular trading, as promptly as practical after 4:00 p.m. ET, based on the value of the Index.[12] The Trust creates and redeems Shares with authorized participants in either cash or in-kind transactions in blocks of 25,000 Shares.[13] The Exchange states that the Trust will comply with all applicable requirements of the generic listing standards for Commodity-Based Trust Shares set forth in Nasdaq Rule 5711(d) on an initial and continued listing basis except that JitoSOL does not meet the eligibility criteria for commodities and commodity-based assets in Nasdaq Rule 5711(d)(iv)(A).[14]

III. Proceedings To Determine Whether To Approve or Disapprove SR–NASDAQ–2026–016 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[15] to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[16] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices'' and ''to protect investors and the public interest.''[17]

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on whether the proposal to list and trade Shares of the Trust, which would hold JitoSOL, is designed to

[19] 17 CFR 200.30–3(a)(12), (59).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 105030 (Mar. 17, 2026), 91 FR 13661 (''Notice''). The Commission has received no comment letters on the proposed rule change.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 105339, 91 FR 24625 (May 6, 2026). The Commission designated June 18, 2026, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Notice, *supra* note 3.

[8] According to the Exchange, JitoSOL is a liquid staking token that evidences ownership of deposited Solana (''SOL''), the underlying digital asset of JitoSOL, and any staking rewards that accrue to the deposited SOL. *See id.* at 13662.

[9] *See id.* at 13664. The Trust is managed and controlled by VanEck Digital Assets, LLC (''Sponsor''). The Trust is a Delaware statutory trust and operates pursuant to a trust agreement. CSC Delaware Trust Company is the Delaware trustee of the Trust. A third party is the custodian for the Trust's JitoSOL holdings, and a third party is the custodian for the Trust's cash holdings. *See id.* at 13662.

[10] *See id.* at 13664. The Index is designed to be a robust price for JitoSOL in USD and is calculated based on prices contributed by trading platforms that the Sponsor's affiliate, MarketVector Indexes GmbH, believes represent the top five JitoSOL trading platforms based on the CCData Centralized Exchange Benchmark review report. *See id.*

[11] *See id.*

[12] *See id.*

[13] *See id.*

[14] *See id.* at 13666. *See also* Securities Exchange Act Release No. 103995 (Sept. 17, 2025), 90 FR 45414 (Sept. 22, 2025) (SR–NASDAQ–2025–056; SR–CboeBZX–2025–104; SR–NYSEARCA–2025–54) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to Adopt Generic Listing Standards for Commodity-Based Trust Shares). The generic listing standards in Nasdaq Rule 5711(d)(iv)(A) provide that each commodity or commodity that underlies a commodity-based asset held by a trust issuing Commodity-Based Trust Shares must meet at least one of the following criteria: (1) the commodity trades on a market that is an Intermarket Surveillance Group (''ISG'') member; provided that the Exchange may obtain information about trading in such commodity from the ISG member; (2) the commodity underlies a futures contract that has been made available to trade on a designated contract market for at least six months; provided that the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG, with such designated contract market; or (3) on an initial basis only, an exchange-traded fund designed to provide economic exposure of no less than 40% of its net asset value to the commodity lists and trades on a national securities exchange.

[15] 15 U.S.C. 78s(b)(2)(B).

[16] *Id.*

[17] 15 U.S.C. 78f(b)(5).

prevent fraudulent and manipulative acts and practices or raises any new or novel concerns not previously contemplated by the Commission.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, and the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[18]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by July 14, 2026. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by July 28, 2026.

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–2026–016 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–2026–016. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NASDAQ–2026–016 and should be submitted on or before July 14, 2026. Rebuttal comments should be submitted by July 28, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–12519 Filed 6–22–26; 8:45 am]

BILLING CODE 8011–01–P

[18] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[19] 17 CFR 200.30–3(a)(57).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 2026–6740]

Agency Information Collection Activities: Requests for Comments; Clearance of a New Approval of Information Collection: Generic Clearance for FAA Aviation Workforce and Education Division

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 for a new information collection. The collection involves gathering data on aerospace career pathways, program feedback, student interests, event participation and impact, registration details, and application forms to support FAA workforce development initiatives. This information enables ARA–100 to meet requirements under the FAA Reauthorization Act of 2024, improve coordination and efficiency, and build a strong pipeline of aerospace professionals to ensure the long-term safety of the National Airspace System.

DATES: Written comments should be submitted by August 24, 2026.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By Mail: Nitin Rao, c/o FAA Regional Office, 2300 E Devon Ave., Des Plaines, IL 0018–4696.

FOR FURTHER INFORMATION CONTACT: Shannon Stearman by email at: *shannon.k-ctr.stearman@faa.gov;* phone: 202–267–0236.

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–NEW.

Title: Generic Clearance for FAA Aviation Workforce and Education Division.

Form Numbers: N/A.

Type of Review: New Information Collection.

Background: The FAA's Aviation Workforce and Education Division (ARA–100) leads strategic workforce development initiatives and public engagement to ensure a robust pipeline of aerospace professionals, thereby safeguarding the long-term safety of the National Airspace System (NAS). These efforts align with Section 423 of the FAA Reauthorization Act of 2024 (the ''Act'') and FAA policies, programs, and initiatives.

To support this mission, ARA–100 collects information including: (a) aerospace career and pathway details, (b) program information for dissemination to workforce stakeholders and students, (c) specialized event and opportunity data for students pursuing aerospace careers, (d) contact and career interest data from students who engage with the FAA, (e) program application forms (including student competitions), (f) event participation and impact data, (g) participant registration information, (h) program feedback, and other related details.

This information is essential for ARA–100 to fulfill its obligations under the Act, improve public service through greater coordination, efficiency, and responsiveness to stakeholder needs, and advance key workforce

development initiatives. Ultimately, these efforts help attract the best and brightest talent into critical aerospace careers and strengthen the U.S. aerospace workforce.

This information is not already collected as this information is directly related to the ARA–100 interactions and programs.

Respondents: Up to 15,000 individual citizens or organizations who interact with the ARA–100 staff and authorized individuals may voluntarily respond to this collection.

Frequency: As Needed.

Estimated Average Burden per Response: 10 Minutes.

Estimated Total Annual Burden: Up to 2,500 hours.

Issued in Des Plaines, IL on June 17, 2026.

Nitin Rao,

Manager, Aviation Workforce and Education Division, ARA–100.

[FR Doc. 2026–12538 Filed 6–22–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2026–1392]

Agency Information Collection Activities: Requests for Comments; Clearance of a New Approval of Information Collection: Global Aircraft Maintenance Safety Improvements

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 for a new information collection. The collection involves gathering data from 14 CFR part 121 air carriers that utilize 14 CFR part 145 repair stations operating outside the United States to perform heavy maintenance. The information to be collected is required by section 302 of the FAA Reauthorization Act of 2024 (codified at 49 U.S.C. 44733(g)) and will be analyzed by the FAA to detect safety issues associated with heavy maintenance performed outside the United States.

DATES: Written comments should be submitted by August 24, 2026.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number FAA–2026–1392 into the search field).

By mail: Nelson E. Acosta, Federal Aviation Administration, Aircraft Maintenance Division, Commercial Aviation Group, 2625 Bay Area Boulevard, Suite 400, Houston, Texas 77598.

By fax: 281–461–2400.

FOR FURTHER INFORMATION CONTACT: Nelson E. Acosta by email at: *nelson.e.acosta@faa.gov;* phone: 281–461–2458.

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–XXXX.

Title: Global Aircraft Maintenance Safety Improvements.

Form Numbers: There are no forms associated with this collection.

Type of Review: This is clearance of a new information collection.

Background: The FAA Reauthorization Act of 2024 (Pub. L. 118–63), enacted May 16, 2024, added section 302(g), Data Analysis, to 49 U.S.C. 44733. Section 302(g) establishes reporting requirements intended to improve FAA oversight of heavy maintenance performed on U.S.-registered aircraft at repair stations located outside the United States.

Under section 302(g), 14 CFR part 121 air carriers that have heavy maintenance performed outside the United States must submit an annual report to the FAA by the end of the following fiscal year. The report must identify the location where any heavy maintenance work on aircraft was performed outside the United States. A description of the work performed at each such location. The date of completion of the work performed at each such location. A list of all failures, malfunctions, or defects affecting the safe operation of such aircraft identified by the air carrier not later than thirty (30) days after the date on which an aircraft is returned to service, organized by reference to aircraft registration number, that requires corrective action after the aircraft is approved for return to service; and results from such work performed on such aircraft. Finally, the certificate number of the person approving such aircraft or on-wing aircraft engine for return to service following completion of the work performed at each such location.

The FAA will collect and analyze this information to detect safety issues associated with heavy maintenance work on aircraft performed outside of the United States.

Respondents: All 14 CFR part 121 air carriers that use 14 CFR part 145 repair stations outside the United States to perform heavy maintenance.

Frequency: Annually.

Estimated Average Burden per Response: 229 hours.

Estimated Total Annual Burden: 14,427 hours.

Issued in Houston, Texas on June 18, 2026.

Nelson E. Acosta,

Aviation Safety Inspector, Aircraft Maintenance Division, Commercial Aviation Group, FS–340.

[FR Doc. 2026–12606 Filed 6–22–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway Projects in Texas

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review.

SUMMARY: The FHWA, on behalf of the Texas Department of Transportation (TxDOT), is issuing this notice to announce actions taken by TxDOT and other Federal agencies that are final agency actions. The actions relate to various proposed highway projects in the State of Texas. These actions grant licenses, permits, and approvals for the projects.

DATES: By this notice, the FHWA, on behalf of TxDOT, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal Agency actions on the highway projects listed below will be barred unless the claim is filed on or before November 20, 2026. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such a claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Patrick Lee, Environmental Affairs Division, Texas Department of Transportation, 125 East 11th Street,

Austin, Texas 78701; telephone: (512) 419–8604; email: *Patrick.Lee@txdot.gov*. TxDOT's normal business hours are 8 a.m. to 5 p.m. (Central Standard Time), Monday through Friday, except State holidays.

SUPPLEMENTARY INFORMATION: The environmental review, consultation, and other actions required by applicable Federal environmental laws for these projects 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 the FHWA and TxDOT.

Notice is hereby given that TxDOT and Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the highway projects in the State of Texas that are listed below.

The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS) issued in connection with the projects and in other key project documents. The CE, EA, or EIS and other key documents for the listed projects are available by contacting the local TxDOT office at the address or telephone number provided for each project below.

This notice applies to all TxDOT and Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321 *et seq.*]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128]; 23 CFR part 771.

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Noise:* Noise Control Act of 1972 [42 U.S.C. 4901–4918]; 23 CFR part 772.

4. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 138 and 49 U.S.C. 303]; 23 CFR part 774; Land and Water Conservation Fund (LWCF) [54 U.S.C. 200302–200310]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

5. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and 1536], Marine Mammal Protection Act [16 U.S.C. 1361–1423h]; Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(f)]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703–712]; Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801–1891d], with Essential Fish Habitat requirements [16 U.S.C. 1855(b)(2)].

6. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 300101 *et seq.*]; Archaeological Resources Protection Act of 1979 (ARPA) [16 U.S.C. 470(aa)–470(II)]; Preservation of Historical and Archaeological Data [54 U.S.C.312501–312508]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013; 18 U.S.C. 1170].

7. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

8. *Wetlands and Water Resources:* Clean Water Act [33 U.S.C. 1251–1377] (Section 404, Section 401, Section 319); Coastal Barriers Resources Act (CBRA) [16 U.S.C. 3501–3510]; Coastal Zone Management Act (CZMA) [16 U.S.C. 1451–1466];; Safe Drinking Water Act (SDWA) [42 U.S.C. 300f–300j–26]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; Wetlands Mitigation, [23 U.S.C. 119(g) and 133(b)(3)]; Flood Disaster Protection Act [42 U.S.C. 4001–4130].

9. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].

10. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 13112 Invasive Species.

The projects subject to this notice are:

1. FM 707, from FM 89 (Buffalo Gap Road) to US 83, Taylor County, Texas. The project will widen FM 707 from two to four lanes with a continuous center turn lane and outer turn lanes. A shared-use path will be installed on the north side of the roadway in addition to crosswalks to improve the pedestrian facilities. The project length is approximately 2.6 miles. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on March 10, 2026, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Abilene District Office at 4250 N. Clack, Abilene, TX 79601; telephone: (325) 676–6800.

2. Ashley Drive Extension, from approximately 65 feet east of Concord Drive to FM 116 tie-in, Coryell County, Texas. The project includes an approximately 365-foot-long extension of Ashley Drive to connect to FM 116 by construction of four 11-foot travel lanes, two westbound and two eastbound, and a five-foot sidewalk on each side of the road. The project will also include work along approximately 760 feet of FM 116 to tie into the extension of Ashley Drive and facilitate turning movements. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on March 11, 2026, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the Waco District Office at 100 S Loop Dr, Waco, TX 76704; telephone: (254) 867–2700.

3. US 183A from Hero Way to SH 45N, Williamson County, Texas. The project will widen US 183A from three to four toll lanes in each direction. The widening will generally occur towards the inside median. The frontage roads and general purpose lanes will remain the same. The project is approximately 8.8 miles in length. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on March 23, 2026, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Austin District Office at 7901 North I–35, Austin, TX 78753; telephone: (512) 832–7000.

4. Speegleville Road Bridge, from south of Maple Shade Road to north of Oak Road, McClennan County, Texas. The project will widen Speegleville Road and reconstruct the bridge over the Middle Bosque River. The project will construct two variable width northbound travel lanes from 12 to 14 feet and two variable width southbound travel lanes from 12 to 14 feet, which will narrow at the River Valley Middle School driveway entrance aprons to accommodate a 12-foot right-hand turn lane. The northbound and southbound travel lanes will be separated by a variable 12 to 16-foot median. Pedestrian walkways will be constructed on the east and west sides

of the roadway. The bridge crossing will be separated into two different bridges elevated over the Middle Bosque River for a total of 528 feet in length for each. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on April 6, 2026 and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Waco District Office at 100 South Loop Dr, Waco, TX 76704; telephone: (254) 867–2700.

5. SH 99 Frontage Road from Highland Knolls/Bay Hill Boulevard to South Fry Road, Fort Bend County, Texas. The project will construct a section of frontage road along SH 99 northbound from South Fry Road to Highland Knolls/Bay Hill Boulevard. The project will also construct two additional sections of frontage road along SH 99 southbound from (1) Highland Knolls/Bay Hill Boulevard to Cinco Ranch Boulevard and then (2) from Westheimer Parkway to South Fry Road. The proposed frontage roads, approximately three miles in length, would also include adjustments of ramp access locations, curb and gutter with storm sewer, and would provide an 8 to 10-foot-wide continuous shared-use path to accommodate bicycles and pedestrians. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on May 7, 2026, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting the TxDOT Houston District Office at 7600 Washington Avenue, Houston, Texas 77007; telephone: (713) 802–5000.

6. US 77 Woodsboro-Refugio Improvement Project, from south of Woodsboro to north of Refugio, Refugio County, Texas. The project will upgrade existing US 77 to interstate standards along the existing route near the Town of Woodsboro and construct a new US 77 roadway to interstate standards east of the City of Refugio. This includes upgrading existing and new location facilities to a four-lane divided freeway with controlled access. The project will extend for a total of approximately 13 miles, beginning just south of Woodsboro and ending approximately 3 miles north of Refugio. The new location roadway north of Woodsboro will be elevated through areas of floodplain and continue east of Refugio, tying back to US 77 east of the Union-Pacific Railroad line. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final EA, the Finding of No Significant Impact (FONSI) issued on March 10, 2026, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting the TxDOT Corpus Christi District Office at 1701 S Padre Island Dr., Corpus Christi, TX 78416; telephone: (361) 808–2660.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

(Authority: 23 U.S.C. 139(l)(1)).

Issued on: June 18, 2026.

Jack Bales,

Director of Project Delivery, Federal Highway Administration.

[FR Doc. 2026–12580 Filed 6–22–26; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2025–0013]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 12 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on January 25, 2026. The exemptions expire on January 25, 2028.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–4001; *fmcsamedical@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments, go to *www.regulations.gov.* Insert the docket number, (FMCSA–2025–0013) in the keyword box and click ''Search.'' Next, choose the only notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W58–213 of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice DOT/ALL–14 FDMS (Federal Docket Management System), which can be reviewed under the ''Department Wide System of Records Notices'' link at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices.* The comments are posted without edit and are searchable by the name of the submitter.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the FMCSRs. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must

publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

The physical qualification standard for drivers regarding seizures and loss of consciousness provides that a person is physically qualified to drive a CMV if that person has ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control'' a CMV (49 CFR 391.41(b)(8)). To assist in applying this standard, FMCSA publishes guidance for medical examiners (MEs) in the form of medical advisory criteria in Appendix A to 49 CFR part 391.[1] In 2007, FMCSA published recommendations from a Medical Expert Panel (MEP) that FMCSA tasked to review the existing seizure disorder guidelines for MEs.[2] The MEP performed a comprehensive, systematic literature review, including evidence available at the time. The MEP issued recommended criteria to evaluate whether an individual with a history of epilepsy, a single unprovoked seizure, or a provoked seizure should be allowed to drive a CMV.

On January 15, 2013, FMCSA began granting exemptions, on a case-by-case basis, to individual drivers from the physical qualification standard regarding seizures and loss of consciousness in 49 CFR 391.41(b)(8) (78 FR 3069). The Agency considers the medical advisory criteria, the 2007 MEP recommendations, and each individual's medical information and driving record in deciding whether to grant the exemption.

On December 19, 2025, FMCSA published a notice announcing receipt of applications from 12 individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (90 FR 59646). The public comment period ended on January 20, 2026, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with 49 CFR 391.41(b)(8).

IV. Discussion of Comments

FMCSA received no comments in this proceeding.

V. Basis for Exemption Determination

The Agency conducted an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen, and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a seizure history and each applicant's certified driving record from their State Driver Licensing Agency (SDLA). The information obtained from each applicant's driving record provides the Agency with details regarding any moving violations or reported crash data, which demonstrates whether the driver has a safe driving history and is an indicator of future driving performance. If the driving record revealed a crash, FMCSA requested and reviewed the related police reports and other relevant documents, such as the citation and conviction information. A summary of each applicant's seizure history was discussed in the December 19, 2025 **Federal Register** notice (90 FR 59646) and will not be repeated in this notice.

These 12 applicants have been seizure-free over a range of 8 to 40 years while taking anti-seizure medication and have maintained a stable medication treatment regimen for the last 2 years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure, and their medical condition does not pose a risk to public safety in the operation of a CMV.

Consequently, FMCSA finds further that in each case, exempting these applicants from the epilepsy and seizure disorder prohibition in 49 CFR 391.41(b)(8) would likely achieve a level of safety equivalent to the level of safety that would be achieved without the exemption, consistent with the applicable standard in 49 U.S.C. 31315(b)(1).

VI. Terms and Conditions

The terms and conditions of the exemption are provided to the applicants in the exemption document and include the following: each driver must (1) remain seizure-free, maintain a stable treatment, and report to FMCSA within 24 hours if they experience a seizure during the 2-year exemption period; (2) submit to FMCSA annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) undergo an annual medical examination by a certified medical examiner, as defined by 49 CFR 390.5T; (4) provide a copy of the annual medical certification to their employer for retention in the driver's qualification file, or keep a copy in their driver's qualification file if they are self-employed; (5) report to FMCSA the date, location, and time of any crashes, as defined in 49 CFR 390.5T, within 7 days of the crash; (6) report to FMCSA any citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391 within 7 days of the citations and convictions; and (7) submit to FMCSA annual certified driving records from their SDLA. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local law enforcement official. In addition, the driver must meet all applicable commercial driver's license testing requirements.

VII. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VIII. Conclusion

Based upon its evaluation of the 12 exemption applications, FMCSA exempts the following drivers from the epilepsy and seizure disorder prohibition in 49 CFR 391.41(b)(8), subject to the requirements cited above:

Joshua Bosworth (SC)
Christian Cole (RI)
Corey Gunderson (WI)
Russell Jarchow (FL)
Kady Kraus (IN)

[1] Appendix A to Part 391, Title 49, available at *https://www.ecfr.gov/current/title-49/part-391/appendix-Appendix* A to Part 391.

[2] ''Expert Panel Recommendations, Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' Medical Expert Panel (Oct. 15, 2007), available at *https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-04/Seizure-Disorders-MEP-Recommendations-v2-prot%2010152007.pdf.*

Thomas Nugent (WA)
Ryan Phillips (MI)
Robert Pierce (OK)
Enmanuel Rodriquez (NJ)
Harman Rutledge (SC)
Robert Tewes (NE)
Robin Vinesett (NC)

In accordance with 49 U.S.C. 31315(b), and FMCSA's policy of issuing medical exemptions for a 2-year period to correspond with the medical certificate, each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption, as set forth above and also in the initial renewal notice (see 90 FR 59646); (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of Title 49, chapter 313 or section 31136.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026–12540 Filed 6–22–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2025–0009]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of denials.

SUMMARY: FMCSA announces its decision to deny applications from 52 individuals who requested an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) prohibiting persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–4001; *fmcsamedical@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments, go to *www.regulations.gov.* Insert the docket number, (FMCSA–2025–0009) in the keyword box and click ''Search.'' Next, choose the only notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W58–213 of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice DOT/ALL–14 FDMS (Federal Docket Management System), which can be reviewed under the ''Department Wide System of Records Notices'' link at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices.* The comments are posted without edit and are searchable by the name of the submitter.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the FMCSRs. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

The physical qualification standard for drivers regarding seizures and loss of consciousness provides that a person is physically qualified to drive a CMV if that person has ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control'' a CMV (49 CFR 391.41(b)(8)). To assist in applying this standard, FMCSA publishes guidance for medical examiners (MEs) in the form of medical advisory criteria in Appendix A to 49 CFR part 391.[1] In 2007, FMCSA published recommendations from a Medical Expert Panel (MEP) that FMCSA tasked to review the existing seizure disorder guidelines for MEs.[2] The MEP performed a comprehensive, systematic literature review, including evidence available at the time. The MEP issued recommended criteria to evaluate whether an individual with a history of epilepsy, a single unprovoked seizure, or a provoked seizure should be allowed to drive a CMV.

On January 15, 2013, FMCSA began granting exemptions, on a case-by-case basis, to individual drivers from the physical qualification standard regarding seizures and loss of consciousness in 49 CFR 391.41(b)(8) (78 FR 3069). The Agency considers the medical advisory criteria, the 2007 MEP recommendations, and each individual's medical information and driving record in deciding whether to grant the exemption.

On December 19, 2025, FMCSA published a notice announcing receipt of applications from 52 individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (90 FR 59636). The public comment period ended on January 20, 2026, and no comments were received.

[1] Appendix A to Part 391, Title 49, available at *https://www.ecfr.gov/current/title-49/part-391/appendix-Appendix* A to Part 391.

[2] ''Expert Panel Recommendations, Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' Medical Expert Panel (Oct. 15, 2007), available at *https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-04/Seizure-Disorders-MEP-Recommendations-v2-prot%2010152007.pdf.*

IV. Discussion of Comments

FMCSA received no comments in this proceeding.

V. Basis for Exemption Determination

The Agency conducted an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen, and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a seizure history and each applicant's certified driving record from their State Driver Licensing Agency (SDLA). The information obtained from each applicant's driving record provides the Agency with details regarding any moving violations or reported crash data, which demonstrates whether the driver has a safe driving history and is an indicator of future driving performance. If the driving record revealed a crash, FMCSA requested and reviewed the related police reports and other relevant documents, such as the citation and conviction information. A summary of each applicant's seizure history was discussed in the December 19, 2025 **Federal Register** notice (90 FR 59636) and will not be repeated in this notice.[3]

VI. Conclusion

Based upon its evaluation of the 52 exemption applications, FMCSA determined that these applicants do not satisfy the eligibility criteria or meet the terms and conditions of the Federal exemption and granting these exemptions would not provide a level of safety that would be equivalent to, or greater than, the level of safety that would be obtained by complying with 49 CFR 391.41(b)(8). Therefore, the 52 applicants in this notice have been denied exemptions from the physical qualification standards in 49 CFR 391.41(b)(8).

Each applicant has, prior to this notice, received a letter of final disposition regarding his or her exemption request. Those decision letters fully outlined the basis for the denial and constitute final action by the Agency. This notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(6)(C) by publishing names and reasons for denial.

The following 52 applicants do not meet the minimum time requirement for being seizure-free, either on or off anti-seizure medication:

Mathew Archer (CO)
Scott Bair (CA)
Rosemarie Black (AK)
Roger Boll (MO)
Stephen Bridges (SC)
William Brock (TN)
Cory Broyles (GA)
Derick Buxton (PA)
Luis Castillo (CO)
Mandel Corbin (DE)
Hector Corrales (PA)
Mason Cross (AL)
Shantel Dalton (IN)
Brandon Daniel (WA)
William Dearing (MD)
Devante Dunkle (AL)
Jeffrey Eggleston (CA)
Loren Ehrich (IA)
Roberto Faltz (NJ)
John Freitag (MO)
Jonna Galicia (CA)
Barry Harmon (KY)
Anisha Hemby (NC)
John Kelley (WI)
Shane Kreh (MD)
Freddy Lee (AL)
William London (CA)
Derrick Magwood (FL)
Clifton Marlow (DC)
Christian Martinez (NJ)
Stephen Mazzali (ID)
Vincenzo Mazzella (NJ)
Antonio Moreno (NV)
Eugene Nuss (NE)
Caleb Peavler (KY)
Daiwik Rana (SC)
Antonio Reddick (FL)
Preston Regier (IN)
Tyler Revermann (MN)
Michael Rice (IA)
Stuart Richardson (NY)
Kevin Riggenbach (OH)
Christopher Robb (OR)
Michael Sheets (NC)
Bobby Simpson (KY)
Timothy Stoddard (OR)
Carlos Tovar (TX)
Joshua Trainum (PA)
Jose Luis Paz Vargas (IL)
Alexander Verduzco (CA)
David Vreeland (NY)
Thurston Wicklund (MN)

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026–12539 Filed 6–22–26; 8:45 am]

BILLING CODE 4910–EX–P

[3] FMCSA has thoroughly reviewed all applications and provided applicants in this notice accurate reasoning for the denial of their exemption request. However, in the **Federal Register** notice (90 FR 59636), it incorrectly states in the applicant summaries that Michael Rice and Christopher Robb have been on anti-seizure medication with the dosage and frequency remaining the same since 2019. Instead, they discontinued use of anti-seizure medication in 2019.

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[DOT–OST–2026–1387]

Request for Information: Shaping the Future of the Bureau of Transportation Statistics; Extension of Comment Period

AGENCY: Bureau of Transportation Statistics (BTS), Office of the Assistant Secretary for Research and Technology (OST–R), U.S. Department of Transportation (DOT).

ACTION: Notice; extension of comment period.

SUMMARY: This notice extends the public comment period for the Request for Information (RFI) titled, ''Shaping the Future of the Bureau of Transportation Statistics (BTS),'' which was published in the **Federal Register** on June 1, 2026 (91 FR 32508). BTS is taking this action in response to requests from the public to allow interested parties additional time to review the notice and prepare meaningful comments. The original comment period was scheduled to close on July 2, 2026. BTS has determined that an extension of the comment period until July 31, 2026 is appropriate.

DATES: The comment period for the notice published on June 1, 2026 (91 FR 32508) is extended. Comments must be received on or before July 31, 2026.

ADDRESSES: Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of June 1, 2026 (91 FR 32508).

FOR FURTHER INFORMATION CONTACT: Edward Strocko, U.S. Department of Transportation, Bureau of Transportation Statistics, 1200 New Jersey Ave. SE, Washington, DC 20590. Telephone: (202) 366–3282. Email: *BTSOutreach@dot.gov.*

SUPPLEMENTARY INFORMATION: On June 1, 2026, BTS published a Request for Information (RFI) in the **Federal Register** (91 FR 32508) seeking public input to evaluate the utility of its product portfolio, identify critical data gaps in the national transportation picture, and improve the user experience for all stakeholders. The original notice requested that comments be submitted on or before July 2, 2026. BTS has received several requests to extend the comment period. An extension of the comment period will allow interested parties additional time to provide robust and meaningful comments. Therefore, BTS is extending the end of the comment period for the RFI from July 2, 2026, to July 31, 2026.

Issued in Washington, DC, on June 18, 2026.

Edward Strocko,

Acting Director, Bureau of Transportation Statistics.

[FR Doc. 2026–12605 Filed 6–22–26; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled, Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be received by July 23, 2026.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0248, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 293–4835.

Instructions: You must include ''OCC'' as the agency name and ''1557–0248'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Written comments and recommendations for the proposed information collection should also be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* You can find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

You may review comments and other related materials that pertain to this information collection following the close of the 30-day comment period for this notice by the method set forth in the next bullet.

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' tab and click on ''Information Collection Review'' from the drop-down menu. From the ''Currently under Review'' drop-down menu, select ''Department of the Treasury'' and then click ''submit.'' This information collection can be located by searching OMB control number ''1557–0248'' or ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC asks the OMB to extend its approval of the collection in this notice.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control No.: 1557–0248.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Description: This generic information collection request (ICR) provides the OCC with a means to solicit qualitative stakeholder feedback in an efficient, timely manner, in accordance with the Federal government's commitment to improving service delivery. Qualitative feedback is information that provides useful insights on perceptions and opinions but does not include statistical survey or quantitative results that can be attributed to the surveyed population. This qualitative feedback provides insights into stakeholder perceptions, experiences, and expectations; provides an early warning of issues with service; and/or focuses attention on areas where communication, training, or changes in operations might improve delivery of products or services. It also enables ongoing, collaborative, and actionable communications between the OCC and its stakeholders, while also utilizing feedback to improve program management.

The OCC's solicitations for feedback target areas such as timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues related to service delivery. The OCC uses the responses to inform and plan efforts to improve or maintain the quality of service offered to the public. If the OCC does not collect this information, it will not have access to vital feedback from stakeholders.

Under this generic ICR, the OCC will submit a specific information collection for approval only if the collection meets the following conditions:

- It is voluntary;
- It imposes a low burden on respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and a low cost on both respondents and the Federal government;
- It is non-controversial and does not raise issues of concern to other Federal agencies;
- It is targeted to solicit opinions from respondents who have experience with the program or will have experience with the program in the near future;

- It includes personally identifiable information (PII) only to the extent necessary, and the OCC does not retain the PII;
- It gathers information intended to be used internally only for general service improvement and program management purposes and is not intended for release outside of the OCC;
- It does not gather information to be used for the purpose of substantially informing influential policy decisions;
- It gathers information that will yield qualitative information and will not be designed or expected to yield statistically reliable results or used to reach general conclusions about the surveyed population; and
- Feedback collected provides useful information but does not yield data that can be attributed to the overall population.

If these conditions are not met, the OCC will submit an information collection request to OMB for approval through the normal PRA process.

The OCC will not use this type of generic clearance for the collection of qualitative feedback for any quantitative information collection.

As a general matter, these information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature.

Estimated Burden

Estimated Frequency of Response: On occasion.

Estimated Number of Respondents: 22,537.

Estimated Total Annual Burden: 8,850 hours.

Comments: On December 29, 2025, the OCC published a 60-day notice for this information collection, (90 FR 60857). One comment was received. In that letter, the commenter states the OCC should not renew this information collection. The commenter contends that OCC's collection appears to be duplicative of information collected under OMB Control No. 1557–0199. The commenter also argues that the OCC's notice is vague and non-descriptive regarding what qualitative information is being collected and from whom. The commenter asserts that the OCC should better describe and differentiate its qualitative information collections on service delivery so the public can provide informed comments. Lastly, the commenter argues the notice does not provide any information or context on improvements or changes the OCC has made to its service delivery from the qualitative feedback received.

The OCC has reviewed the comment and disagrees with the comment that the collection should not be renewed. The generic clearance approval process is an available administrative flexibility under the PRA.[1] Generic clearances enable agencies to meet PRA obligations while eliminating unnecessary burdens and delays,[2] and they are used typically for customer satisfaction surveys, website satisfaction surveys, and focus groups. This type of information collection is most appropriate when the need for the overall practical utility of the data collection can be evaluated in advance but an agency cannot determine the details of the specific individual collections until a later time.[3] While the commenter argues that the notice is ''vague and non-descriptive regarding what qualitative information is being collected,'' it is consistent with OMB's guidelines for generic clearances. The OCC uses this information collection for requests for feedback, such as customer satisfaction surveys, website satisfaction surveys, and focus groups, and only if certain conditions are met, including, among other conditions, that a response is voluntary.

The OCC also disagrees with the comment that this collection is duplicative of information collected under OMB Control No. 1557–0199, Examination Survey. The OCC's Examination Survey is used to obtain information about the effectiveness of its examination processes, overall supervision, and communication with supervised institutions. That information collection went through the normal PRA process instead of the generic clearance process, was approved under OMB Control No. 1557–0199, and is not duplicative of this generic clearance.

Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC'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 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.

Eden Gray,

Assistant Director, Office of the Comptroller of the Currency

[FR Doc. 2026–12594 Filed 6–22–26; 8:45 am]

BILLING CODE 4810–33–P

[1] *See* OMB's memorandum, ''Flexibilities under the Paperwork Reduction Act for Compliance with Information Collection Requirements'' dated July 22, 2016; available at: *https://trumpwhitehouse.archives.gov/sites/whitehouse.gov/files/omb/inforeg/inforeg/pra_flexibilities_memo_7_22_16_finalI.pdf.*

[2] *See* OMB's memorandum, ''Paperwork Reduction Act—Generic Clearances'' dated May 28, 2010; available at: *https://trumpwhitehouse.archives.gov/sites/whitehouse.gov/files/omb/assets/inforeg/PRA_Gen_ICRs_5-28-2010.pdf.*

[3] *Id.*

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request on Form 8975 and Schedule A (Form 8975)

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 24, 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. 1545–2272'' 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 LaNita Van Dyke, 202–317–6009.

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: Country-by-Country Reporting.

OMB Control Number: 1545–2272.

Form Number: 8975.

Abstract: 26 CFR 1.6038–4, issued under the authority of 26 U.S.C. 6001, 6011, 6012, 6031, 6038, and 7805, requires U.S. persons that are the ultimate parent entity of a U.S. multinational enterprise (U.S. MNE) group with annual revenue for the preceding reporting period of $850 million or more to file Form 8975 with their income tax return. Form 8975 and Schedules A (Form 8975) are used by filers to annually report certain information with respect to the filer's U.S. MNE group on a country-by-country basis. The filer must list the U.S. MNE group's constituent entities, indicating each entity's tax jurisdiction (if any), country of organization and main business activity, and provide financial and employee information for each tax jurisdiction in which the U.S. MNE does business. The financial information includes revenues, profits, income taxes paid and accrued, stated capital, accumulated earnings, and tangible assets other than cash. Separate Schedules A (Form 8975) are filed for each tax jurisdiction in which a group has one or more constituent entities resident.

Current Actions: There is no change to the existing collection previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 2,045.

Estimated Time per Response: 6 hours, 41 minutes.

Estimated Total Annual Burden Hours: 46,790.

Dated: June 17, 2026.

LaNita Van Dyke,

Tax Analyst.

[FR Doc. 2026–12545 Filed 6–22–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0747]

Agency Information Collection Activity: Application for Disability Compensation Benefits

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Comments must be received on or before August 24, 2026.

ADDRESSES: Comments must be submitted through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Program-Specific information: Kendra Mccleave, 202–461–9760, *kendra.mccleave@va.gov.*

VA PRA information: Dorothy Glasgow, 202–461–1084, *VAPRA@va.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Disability Compensation Benefits (VA Form 21–526EZ).

OMB Control Number: 2900–0747. *https://www.reginfo.gov/public/do/PRASearch* (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21–526EZ is used to collect the information needed to process a claim for disability compensation and/or related compensation benefits. The form has evolved over time into a standard claim form to be used for any benefit associated with disability compensation; to include new or initial claims and claims for increase. Without this information, determination of entitlement would not be possible.

VBA is currently undertaking an initiative to streamline and simplify VA Form 21–526EZ, aiming to reduce the length and complexity of the form by the end of Calendar Year 2026. The primary objectives are to enhance the experience for Veterans, lessen the administrative burden and time required to submit a claim for benefits, and accommodate preferences for submitting forms either through *VA.gov* or via paper, while preserving accessibility.

Burden has decreased due to the shortening of the length of the form from 15 to 5 pages, further reducing the respondent burden from 25 minutes to 15 minutes and through a decrease in the number of receivables averaged over the past year.

Affected Public: Individuals or Households.

Estimated Annual Burden: 499,398 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 1,997,592 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. 2026–12555 Filed 6–22–26; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0041]

Agency Information Collection Activity: Compliance Inspection Report

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent by July 23, 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. 2900–0041.''

FOR FURTHER INFORMATION CONTACT: *VA PRA information:* Dorothy Glasgow, 202–461–1084, *VAPRA@va.gov.*

SUPPLEMENTARY INFORMATION:

Title: Compliance Inspection Report (VA Form 26–1839).

OMB Control Number: 2900–0041 *https://www.reginfo.gov/public/do/PRASearch.*

Type of Review: Extension without Change of a Currently Approved Collection.

Abstract: VA Form 26–1839, Compliance Inspection Report, is used by fee compliance inspectors to report acceptability of residential construction and conformity with standards pursuant to 38 U.S.C. Chapter 21. These inspections provide a level of protection to Veterans by assuring both the Veteran and VA that the adaptations are in compliance with the plans and specifications on which the specially adapted housing grant is based.

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 14635, March 25, 2026.

Affected Public: Individuals or Households.

Estimated Annual Burden: 910 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One-Time.

Estimated Number of Respondents: 3,640 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. 2026–12556 Filed 6–22–26; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0877]

Agency Information Collection Activity: Freedom of Information Act (FOIA) or Privacy Act (PA) Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Comments must be received on or before August 24, 2026.

ADDRESSES: Comments must be submitted through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Program-Specific information: Kendra Mccleave, 202–461–9760, *kendra.mccleave@va.gov.*

VA PRA information: Dorothy Glasgow, 202–461–1084, *VAPRA@va.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Freedom of Information Act (FOIA) or Privacy Act (PA) Request (VA Form 20–10206).

OMB Control Number: 2900–0877. *https://www.reginfo.gov/public/do/PRASearch* (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 20–10206 is used by VA to gather the necessary information to fulfill claimants' requests to access Federal agency records and requests for access to records based on name or another personal identifier. Without this information, VA would not be able to efficiently process FOIA and PA requests in a standardized manner. As such, requests from claimants and stakeholders vary in nature and in scope.

This control number used to be associated with three information collections. This control number now only includes this information collection, and the burden estimate has increased due to the estimated number of receivables averaged over the past year.

Affected Public: Individuals or Households.

Estimated Annual Burden: 14,378 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 172,534 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. 2026–12554 Filed 6–22–26; 8:45 am]

BILLING CODE 8320–01–P



FEDERAL REGISTER

Vol. 91 Tuesday,
No. 119 June 23, 2026

Part II

Department of Homeland Security

8 CFR Part 106
Naturalization Application Fee Adjustments; Proposed Rule

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 106

[CIS No. 2834–25; DHS Docket No. USCIS–2026–0265]

RIN 1615–AD08

Naturalization Application Fee Adjustments

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security (DHS) proposes to adjust the fees that U.S. Citizenship and Immigration Services (USCIS) charges for Form N–400, and Form N–336, to end both the reduced fee option for Form N–400, and the availability of fee waivers for both forms. Current and former armed forces service members would remain exempt from paying the fees when filing for naturalization under statutes for members of the armed forces. The proposed rule is intended to align these fees with the relative costs to adjudicate these forms.

DATES: *Submission of Public Comments:* Written comments must be submitted on or before August 24, 2026. The electronic Federal Docket Management System will accept comments prior to midnight ET at the end of that day.

ADDRESSES: You may submit comments on the entirety of this proposed rulemaking package, identified by DHS Docket No. USCIS–2026–0265, through the Federal eRulemaking Portal: *https://www.regulations.gov.* Follow the website instructions for submitting comments.

Comments must be submitted in English, or an English translation must be provided. Comments that will provide the most assistance to USCIS in implementing these changes will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. Comments submitted in a manner other than through the Federal eRulemaking Portal, including emails or letters sent to DHS or USCIS officials, will not be considered comments on the proposed rule and may not receive a response from DHS. Please note that DHS and USCIS cannot accept any comments that are hand-delivered or couriered. In addition, USCIS cannot accept comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives. USCIS is also not accepting mailed comments at this time. If you cannot submit your comment by using *https://www.regulations.gov,* please contact the Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by telephone at (240) 721–3000 for alternate instructions.

FOR FURTHER INFORMATION CONTACT: Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 5900 Capital Gateway Drive, Camp Springs, MD 20746; telephone (240) 721–3000. Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 711.

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6. Total Quantified Cost Savings and Transfer Payments
7. Price Elasticity
8. Alternatives
B. Regulatory Flexibility Act
C. Unfunded Mandates Reform Act of 1995 (UMRA)
D. Executive Order 13132 (Federalism)
E. Executive Order 12988 (Civil Justice Reform)
F. Family Assessment
G. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)
H. National Environmental Policy Act
I. Paperwork Reduction Act
1. USCIS Form I–912
2. USCIS Form N–336
3. USCIS Form N–400

Table of Abbreviations

ABC Activity-Based Costing
BLS Bureau of Labor Statistics
CFO Chief Financial Officer
CPI–U Consumer Price Index for All Urban Consumers
DHS Department of Homeland Security
DOL Department of Labor
DOW Department of War (also known as the Department of Defense)
E.O. Executive Order
FASAB Federal Accounting Standards Advisory Board
FDNS Fraud Detection and National Security Directorate
FPG Federal Poverty Guidelines
FY Fiscal Year
GAO Government Accountability Office
GMC Good Moral Character
HHS Department of Health and Human Services
HSA Homeland Security Act of 2002
IEFA Immigration Examinations Fee Account
INA Immigration and Nationality Act of 1952
IOAA Independent Offices Appropriations Act
IRFA Initial Regulatory Flexibility Analysis
LPR Lawful Permanent Resident
MTB Means-Tested Benefit
NEPA National Environmental Policy Act
NPRM Notice of Proposed Rulemaking
OBBBA One Big Beautiful Bill Act
OMB Office of Management and Budget
OPQ Office of Performance and Quality
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Analysis
RIA Regulatory Impact Analysis
SAM Staffing Allocation Model
SBREFA Small Business Regulatory Enforcement Fairness Act of 1996
SIJ Special Immigrant Juvenile
SIV Special Immigrant Visa
TPS Temporary Protected Status
TVPRA Trafficking Victims Protection Reauthorization Act of 2008
UMRA Unfunded Mandates Reform Act of 1995
USCIS U.S. Citizenship and Immigration Services
VAWA Violence Against Women Act
VPC Volume Projection Committee

I. Public Participation

DHS invites all interested parties to participate in this rulemaking by submitting written data, views, comments, and arguments on all aspects of this proposed rule. DHS also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments must be submitted in English, or an English translation must be provided. Comments that will provide the most assistance to USCIS in implementing these changes will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. Comments submitted in a manner other than through the Federal eRulemaking Portal, including emails or letters sent to DHS or USCIS officials, will not be considered comments on the proposed rule and may not receive a response from DHS.

Instructions: If you submit a comment, you must include the agency name (U.S. Citizenship and Immigration Services) and the DHS Docket No. USCIS–2026–0265 for this rulemaking. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary public comment submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy and Security Notice at *https://www.regulations.gov.*

Docket: For access to the docket and to read background documents or comments received, go to *https://www.regulations.gov,* referencing DHS Docket No. USCIS–2026–0265. You may also sign up for email alerts on the online docket to be notified when comments are posted or a final rule is published.

II. Executive Summary

DHS proposes to adjust the fees for Form N–400, Application for Naturalization, and Form N–336, Request for a Hearing on a Decision in Naturalization Proceedings Under Section 336, in the USCIS Fee Schedule.[1] DHS's last comprehensive adjustment to the USCIS fee schedule occurred on January 31, 2024, and took effect on April 1, 2024. *See* 89 FR 6194 (Jan. 31, 2024) (2024 Fee Rule).[2]

USCIS is primarily funded by immigration and naturalization benefit request fees charged to applicants and petitioners. Fees collected from individuals and entities filing immigration benefit requests are deposited into the Immigration Examinations Fee Account (IEFA). These fee collections fund the cost of fairly and efficiently adjudicating immigration benefit requests, including those provided without charge to certain benefit requestors.

The proposed fees for Form N–400 and Form N–336 would recover the full costs associated with adjudicating these forms according to the beneficiary-pays principle. This proposed rule also would eliminate fee waivers for both forms and the reduced fee for aliens and U.S. nationals [3] filing Form N–400. Qualified current and former armed forces service members would still be exempt from paying the fees for Form N–400 and Form N–336 because these fee exemptions are required by statute. *See* INA sec. 328(b)(4), 8 U.S.C. 1439(b)(4); INA sec. 329(b)(4), 8 U.S.C. 1440(b)(4).

A. Purpose of the Regulatory Action

The purpose of this proposed rule is to adjust the fees for Form N–400 and Form N–336, including eliminating fee waivers and reduced fees for these forms, so that their fees recover the full cost of their adjudication, according to the beneficiary-pays approach to fee setting. These proposed changes aim to align the fees for Form N–400 and Form N–336 with the costs of processing those forms, while maintaining statutory compliance and supporting USCIS' financial sustainability. USCIS continually works to improve the integrity of the U.S. naturalization system and ensure full compliance with current naturalization laws. The current fees for Form N–400 and Form N–336 do not recover the full cost of thoroughly adjudicating applications for naturalization, including necessary screening and vetting checks, which USCIS is continuously enhancing consistent with the President's Executive Orders.

On January 20, 2025, the President signed multiple Executive Orders related to immigration and naturalization policy. Executive Order (E.O.) 14161, Protecting the United States From Foreign Terrorists and Other National Security and Public Safety Threats, section 2, instructs DHS to coordinate with the Secretary of State to ''vet and screen to the maximum degree possible'' all aliens who are already in the United States, and identify all resources that may be used to do so. *See* 90 FR 8451, 8451 (Jan. 30, 2025). Section 3(f) of E.O. 14161 also instructs DHS to coordinate with the Secretary of State to ''recommend any additional measures to be taken that promote a unified American identity and attachment to the Constitution, laws, and founding principles of the United States.'' 90 FR 8451, 8452. In addition, E.O. 14159, Protecting the American People Against Invasion, 90 FR 8443 (Jan. 29, 2025), revoked E.O. 14012, Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans, 86 FR 8277 (Feb. 5, 2021), and instructs DHS to take all appropriate action to promptly revoke all policies that were issued based on E.O. 14012.[4] On March 25, 2025, the President signed E.O. 14248, Preserving and Protecting the Integrity of American Elections, to prioritize vetting voters' citizenship and imposing actions against aliens who falsely claim U.S. citizenship to register or vote. *See* 90 FR 14005 (Mar. 28, 2025). On August 25, 2025, the President signed E.O. 14341, Prosecuting Burning of the American Flag, 90 FR 42127 (Aug. 28, 2025). Section 2(d) of the E.O. instructs DHS to deny naturalization proceedings when a foreign national has engaged in American Flag-desecration activity under circumstances that permit the exercise of such remedies pursuant to Federal law. *See* 90 FR 42127, 42127–42128. As discussed further in Section IV.F of this preamble, DHS has already

[1] *See* USCIS, Form G–1055, ''Fee Schedule,'' *https://www.uscis.gov/g-1055* (Oct. 28, 2025 ed.).

[2] DHS subsequently published two corrections. *See* 89 FR 20101 (Mar. 21, 2024); 90 FR 5519 (Jan. 17, 2025).

[3] An alien is defined as a person not a citizen or national of the United States. *See* Immigration and Nationality Act (INA) sec. 101(a)(3), 8 U.S.C. 1101(a)(3). However, nationals of the United States who are not citizens may also apply for naturalization under the INA. The INA defines a national of the United States as either a U.S. citizen or ''a person who, though not a citizen of the United States, owes permanent allegiance to the United States.'' *See* INA sec. 101(a)(22), 8 U.S.C. 1101(a)(22). For ease of reading this preamble, the preamble will refer to ''alien'' or ''applicant,'' although the descriptions equally apply to U.S. nationals who are not U.S. citizens.

[4] *See also* 90 FR 8237 (Jan. 28, 2025) (also revoking E.O. 14012). Section 5, Promoting Naturalization, of E.O. 14012 instructed DHS to develop a plan to make the naturalization process more accessible to all eligible individuals, including through a potential reduction of the naturalization fee and restoration of the fee waiver process. *See* 86 FR 8277.

announced various changes to the naturalization process, which are expected to require additional resources for USCIS to process Form N–400 and Form N–336.

The proposed fee changes would align the fees for processing Form N–400 and Form N–336 with the current, known, projected costs of processing Form N–400 and Form N–336. Fees that do not fully recover the adjudicative costs, combined with the availability of fee waivers for Form N–400 and Form N–336, have led DHS to raise fees for other benefit requests to make up the difference.[5] Increasing fees and eliminating fee waivers for Form N–400 and Form N–336 would close the cost/revenue gap from these forms that is currently filled by fees charged to other benefit requestors.

Although DHS has historically limited the fees for Form N–400 and Form N–336 to fulfill previous administrations' priorities of encouraging naturalization (*see* 88 FR 402, 485–489 (Jan. 4, 2023) (2023 Proposed Fee Rule); 89 FR 6194, 6300–6301 (2024 Fee Rule)), DHS no longer believes naturalization benefit requests should get lower fees at the potential expense of other immigration benefits, as discussed in Section IV.A of this preamble.

B. Legal Authority

DHS issues this proposed rule consistent with its authority under various sections of the Immigration and Nationality Act (INA or the Act), 8 U.S.C. 1101, *et seq.,* and the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135 (codified in part at 6 U.S.C. 101 *et seq.*). Specifically, these statutes include: 6 U.S.C. 112; INA sec. 103(a), 8 U.S.C. 1103(a); INA sec. 286(j) and (m), 8 U.S.C. 1356(j) and (m); INA sec. 344, 8 U.S.C. 1455 (referencing 31 U.S.C. 9701); and 31 U.S.C. 901–03.

C. Summary of the Major Provisions of the Regulatory Action

DHS proposes the following changes to the fees for Form N–400 and Form N–336:

- Adjust the fee for Form N–400 to $1,330 (paper filings) and $1,280 (online filings) [6] to recover the full cost of adjudicating the form while maintaining the fee exemptions for military service members applying under section 328 or 329 of the INA, 8 U.S.C. 1439, 1440. *See* proposed 8 CFR 106.2(b)(3);
- Adjust the fee for Form N–336 to $1,475 (paper filings) and $1,425 (online filings) to recover the full cost of adjudicating the form while maintaining fee exemptions for military service members applying for naturalization under section 328 or 329 of the INA, 8 U.S.C. 1439, 1440. *See* proposed 8 CFR 106.2(b)(2);
- Eliminate the reduced fee for Form N–400 for aliens whose household income is less than or equal to 400 percent of the Federal Poverty Guidelines (FPG). *See* proposed 8 CFR 106.2(b)(3); and
- Eliminate eligibility for fee waivers for aliens filing Form N–400 or Form N–336. *See* proposed 8 CFR 106.3(a)(3)(i).

Table II.1: Current Fees and Proposed Fees for Form N-400 and Form N-336

Immigration Benefit Request	Current Fee	Proposed Fee	Percent Change
Form N-336 Request for a Hearing on a Decision in Naturalization Proceedings Under Section 336 (paper filing)	$830	$1,475	78%
Form N-336 Request for a Hearing on a Decision in Naturalization Proceedings Under Section 336 (online filing)	$780	$1,425	83%
Form N-400 Application for Naturalization (paper filing)	$760	$1,330	75%
Form N-400 Application for Naturalization (online filing)	$710	$1,280	80%
Form N-400 Application for Naturalization (aliens with household income below 400 percent of the FPG)	$380	N/A	N/A

Note: The current Form N-400 reduced fee option of $380 is only available through paper filing.

D. Costs and Benefits

Fee increases for Form N–400 and Form N–336 would result in annualized transfer payments from current full fee-paying alien applicants to USCIS of approximately $430,049,505 (primary estimate, discounted at 3 and 7 percent). The total 10-year transfer payments from current full fee-paying alien applicants to USCIS would be $3,668,409,508 (primary estimate) at a 3 percent discount rate and $3,020,487,765 (primary estimate) at a 7 percent discount rate.

The fee waiver amendments for Form N–400 and Form N–336 would result in annualized transfer payments from current fee-waiver eligible aliens to USCIS of approximately $196,353,305 (primary estimate, discounted at 3 and 7 percent). The total 10-year transfer payments from current fee-waiver eligible aliens to USCIS would be $1,674,933,519 (primary estimate) at a 3 percent discount rate and $1,379,103,448 (primary estimate) at a 7 percent discount rate.

The reduced fee amendment for Form N–400 would result in annualized transfer payments from current reduced

[5] *See* 88 FR 402, 486–489 (Jan. 4, 2023); 89 FR 6194, 6241; USCIS, DHS, ''Use of Fee Waivers: Policy and Data, Fourth Quarter, Fiscal Year 2023'' (Mar. 22, 2024), *https://www.dhs.gov/sites/default/files/2024-04/2024_0415_uscis_use_of_fee_waivers_q4_0.pdf; see also* 89 FR 6194, 6249–6254 (commenting on USCIS processing times and backlogs).

[6] DHS is not proposing to change the $50 discount for filing Form N–400 and Form N–336 online pursuant to 8 CFR 106.1(g).

fee eligible aliens to USCIS of approximately $16,730,450 (primary estimate, discounted at 3 and 7 percent). The total 10-year transfer payments from current reduced fee eligible aliens to USCIS would be $142,714,132 (primary estimate) at a 3 percent discount rate and $117,507,680 (primary estimate) at a 7 percent discount rate.

The fee waiver and reduced fee amendments for Form N–400 and Form N–336 would result in opportunity cost savings for aliens who are no longer eligible for the waived or reduced fees and do not need to fill out Form I–912 or Part 10 of Form N–400 of approximately $3,514,895 (primary estimate, discounted at 3 and 7 percent). The total 10-year cost savings for aliens would be $29,982,767 (primary estimate) at a 3 percent discount rate and $24,687,152 (primary estimate) at a 7 percent discount rate.

This proposed rule would set the fees for Form N–400 and Form N–336 to recover the cost of adjudicating and processing both forms, including performing screening and vetting checks which USCIS is continuously enhancing, allowing USCIS to improve the integrity of the U.S. naturalization system and ensure full compliance with current naturalization laws and the President's Executive Orders. DHS anticipates this proposed rule would produce a qualitative benefit for USCIS by substantially reducing resources that would have been expended on adjudicating and processing fee waiver and reduced fee requests. Qualitatively, the proposed rule would also reduce administrative costs to adjudicate Forms I–912, N–400, and N–336 that are submitted by aliens ineligible for naturalization or a fee waiver, and who may know they are not eligible, but who file the application anyway because it would potentially be free if USCIS ultimately approved the fee waiver.[7] Additionally, it reduces the administrative costs of adjudicating reduced fee requests that are submitted by aliens who are ineligible for naturalization or a reduced fee, and may know they are not eligible, but file the request anyway. On the other hand, increasing general fees and eliminating fee waivers and reduced fees might cause certain aliens who are eligible to become naturalized U.S. citizens to delay applying and paying the increased fee. This could result in additional lawful permanent resident (LPR) requests in the future for renewal of their Permanent Resident Cards (''Green'' Card) which would be an added burden to applicants and USCIS.

III. Background and Purpose

A. Legal Authority and Immigration Examination Fee Account

The Secretary's authority for the regulatory amendments made in this proposed rule are found in various sections of the INA, 8 U.S.C. 1101, *et seq.,* and the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135 (codified in part at 6 U.S.C. 101 *et seq.*). General authority for issuing regulations is found in section 103(a) of the INA, 8 U.S.C. 1103(a), which authorizes the Secretary to administer and enforce the immigration and nationality laws and establish such regulations as the Secretary deems necessary for carrying out such authority, as well as section 102 of the HSA, 6 U.S.C. 112, which vests all of the functions of DHS in the Secretary and authorizes the Secretary to issue regulations.[8] Section 286(m) of the INA, 8 U.S.C. 1356(m), authorizes the Secretary to set ''fees for providing adjudication and naturalization services . . . at a level that will ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants.'' [9] Section 286(j) of the INA, 8 U.S.C. 1356(j), provides specific authority for the Secretary to prescribe rules and regulations as may be necessary to carry out the fee provisions of section 286 of the INA, 8 U.S.C. 1356. Section 344 of the INA, 8 U.S.C. 1455, requires the Secretary to charge and collect fees related to naturalizations, consistent with the principles outlined in 31 U.S.C. 9701.[10] Section 344(c) of the INA further specifies that, with a few exceptions, the fees collected related to naturalization must be deposited in the IEFA under section 286(m) of the INA, 8 U.S.C. 1356(m). Moreover, 31 U.S.C. 9701 provides broad authority to the head of each agency (except a mixed-ownership Government corporation) to prescribe regulations establishing the charge for a service or thing of value provided by the agency and stipulates that these regulations prescribed by the heads of executive agencies are subject to policies prescribed by the President and shall be as uniform as practicable. It further prescribes that the charge shall be fair and based on the costs to the Government, the value of the service or thing to the recipient, public policy or interest served, and other relevant facts (*see* 31 U.S.C. 9701(b)), in accordance with the sense of Congress that each service or thing of value provided by an agency to a person is to be self-sustaining to the extent possible.

The CFO Act, 31 U.S.C. 901–03, requires USCIS' Chief Financial Officer (CFO), among other things, to review on a biennial basis the fees imposed by the agency for services it provides and to recommend changes to its fees. The CFO Act's biennial review requirement is the minimum frequency required by a fee-

[7] Form I–912, or a fee waiver request, must be submitted together with Form N–400 or with Form N–336. Form I–912 is adjudicated before the Form N–400 or Form N–336 is adjudicated. If the Form I–912 is approved, USCIS will issue a receipt notice for the Form N–400 or Form N–336 and proceed with adjudicating Form N–400 or Form N–336. If the Form I–912 is denied, the entire application package will be returned to the applicant. *See* USCIS, Form I–912, ''Instructions for Request for Fee Waiver,'' *https://www.uscis.gov/sites/default/files/document/forms/i-912instr.pdf* (July 22, 2025 ed.).

[8] As of March 1, 2003, the former Immigration and Naturalization Service (INS) ceased to exist as an agency within the United States Department of Justice (DOJ) and its functions regarding the applications for immigration benefits and naturalizations were transferred to the United States Citizenship and Immigration Services in the United States Department of Homeland Security. *See* HSA secs. 451(b) and 471, 6 U.S.C. 271(b), 291. Although several provisions of the INA discussed in this proposed rule refer exclusively to the ''Attorney General,'' such provisions are now to be read as referring to the Secretary of Homeland Security by operation of the HSA. *See, e.g.,* INA secs. 103(a)(1), 286, 344, 8 U.S.C. 1103(a)(1), 1356, 1455; *Nielsen* v. *Preap,* 139 S. Ct. 954, 959 n.2 (2019).

[9] The longstanding interpretation of DHS is that the ''including'' clause in INA sec. 286(m), 8 U.S.C. 1356(m), does not constrain DHS's fee authority under the statute. The ''including'' clause offers only a non-exhaustive list of some of the costs that DHS may consider part of the full costs of providing adjudication and naturalization services. *See* INA sec. 286(m), 8 U.S.C. 1356(m); 84 FR 23930, 23932 n.1 (May 23, 2019); 81 FR 26904, 26906 n.10.

[10] Consistent with prior rulemakings DHS does not interpret 31 U.S.C. 9701 as providing independent authority for DHS to set USCIS fees. *See* 89 FR 6194, 6246 (Jan. 31, 2024). Most U.S. government agencies that charge fees do so under the Independent Offices Appropriations Act (IOAA), codified at 31 U.S.C. 9701 (providing, *inter alia,* that ''[e]ach charge shall be . . . based on . . . the costs to the Government [and] the value of the service or thing to the recipient''). However, in lieu of appropriations, Congress has directed that immigration benefits be funded with fees. *See* Depts. of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act for 1989, Public Law 100–459, sec. 209, 102 Stat. 2186 (1988) (codified at INA sec. 286(m), 8 U.S.C. 1356(m)). However, INA sec. 344(a), 8 U.S.C. 1455, incorporates the guidance in 31 U.S.C. 9701 by reference. On October 24, 1988, Congress amended INA sec. 344(a), 8 U.S.C. 1455, by inserting the reference to 31 U.S.C. 9701. *See* Public Law 100–525, sec. 9(ff), 102 Stat. 2609 (1988). In 1990, without modifying section 344 of the INA, 8 U.S.C. 1455, Congress amended INA sec. 286(m), 8 U.S.C. 1356(m) and directed that the Immigration Examinations Fee Account (IEFA) fund the full costs of providing ''adjudication and naturalization services,'' including services provided to immigrants at no charge, *see* Public Law 101–515, sec. 210(d)(1) and (2), 104 Stat. 2101, 2121 (Nov. 5, 1990), thereby providing broad statutory authority to consider all factors enumerated in INA secs. 286(m) and 344, 8 U.S.C. 1356 and 1455, as well as 31 U.S.C. 9701.

funded agency, so it permits DHS to adjust USCIS fees more often than biennially as needed.[11] Furthermore, the CFO Act requires the CFO to direct, manage, and provide policy guidance and oversight of agency financial management, personnel, activities, and operations. *See* 31 U.S.C. 902(a)(5).

USCIS is primarily funded by fees charged to applicants, petitioners, and requestors for immigration and naturalization benefit requests. USCIS manages the following four fee accounts:

- The IEFA, which includes premium processing revenues (INA sec. 286(m), (n), (t), and (u); 8 U.S.C. 1356(m), (n), (t), and (u));
- The Fraud Prevention and Detection Account (INA secs. 214(c)(12) and (13), 286(v); 8 U.S.C. 1184(c)(12) and (13), 1356(v));
- The H–1B Nonimmigrant Petitioner Account (INA secs. 214(c)(9) and (11), 286(s); 8 U.S.C. 1184(c)(9) and (11), 1356(s)); and
- The EB–5 Integrity Fund (INA sec. 203(b)(5)(J), 8 U.S.C. 1153(b)(5)(J)).

In 1988, Congress established the IEFA in the Treasury of the United States. *See* Public Law 100–459, sec. 209, 102 Stat. 2186 (Oct. 1, 1988) (codified as amended at INA sec. 286(m) and (n), 8 U.S.C. 1356(m) and (n)). Fees deposited into the IEFA fund adjudication and naturalization services. In subsequent legislation, Congress directed that the IEFA fund the full costs of providing all such services, including services provided to immigrants at no charge. *See* Public Law 101–515, sec. 210(d)(1) and (2), 104 Stat. 2101, 2121 (Nov. 5, 1990). Consequently, the immigration benefit fees were increased to recover these additional costs. *See* 59 FR 30520 (June 14, 1994).

In FY 2024, the IEFA accounted for approximately 94 percent of total funding for USCIS, or $5.9 billion out of the $6.3 billion in total USCIS funding. The remaining USCIS funding came from appropriations (approximately 5 percent or $0.3 billion) or other fee accounts (approximately 1 percent or $0.1 billion) in FY 2024.[12] The Fraud Prevention and Detection Account [13] and H–1B Nonimmigrant Petitioner Account [14] are both funded by fees for which the dollar amount is set by statute. DHS has no authority to adjust the fees for these accounts. The EB–5 Integrity Fund, a new fee account established in FY 2023, uses initial fees set by statute.

B. Full Cost Recovery

USCIS receives millions of requests each year for immigration benefits,[15] including nearly one million Form N–400 submissions and thousands of Form N–336 submissions.[16] These benefits are funded, generally, by charging fees for USCIS services. However, the costs incurred by USCIS for processing Form N–400 and Form N–336 exceed the fee revenue generated from the filing of these forms. *See* Section III.H and I.

DHS is authorized to charge fees that ensure the full recovery of the costs associated with providing immigration and naturalization services, either for select immigration benefits,[17] or the general costs associated with providing all adjudication and naturalization services. As explained more fully below, USCIS is primarily fee-funded, so it must also ensure that it maintains a sufficient carryover balance [18] to continue operating. ''[F]ull costs'' in section 286(m) of the INA, 8 U.S.C. 1356(m), necessarily includes support costs, such as physical overhead, information technology, management and oversight, human resources, national security vetting and investigations, accounting and budgeting, and legal, for example. USCIS revenue carryover provides financial flexibility to manage the unpredictable nature of immigration service demand while maintaining accountability through congressional oversight.[19] Unlike most Federal agencies, USCIS is allowed to retain unspent fee revenue from one fiscal year for use in future years.[20]

To set fees for immigration benefit requests, DHS generally relies on OMB Circular A–25,[21] which advises that each service provided by an agency should be self-sustaining and charges for benefits should be at least as great as the costs to the Government of providing them.[22] OMB Circular A–25 also specifies that, when the Government is supplying a special benefit to an identifiable recipient that also provides an incidental benefit to the public, the agency need not allocate costs to the public and should seek to recover from the recipient the full cost

[11] *See* 31 U.S.C. 902(a)(8) (''An Agency Chief Financial Officer shall . . . review, on a biennial basis, the fees, royalties, rents and other charges imposed by the agency for services and things of value it provides . . .'').

[12] *See* DHS, ''Fiscal Year 2026 Budget in Brief'' (July 3, 2025), *https://www.dhs.gov/sites/default/files/2025-07/2025_07_03_ocfo_fy-2026-budget-in-brief.pdf.*

[13] The Fraud Prevention and Detection fees charged to certain employers petitioning for nonimmigrant workers in the H–1B, H–2B, and L–1 visa classifications are set by statute. Revenue is used for activities related to preventing and detecting fraud in immigration benefit requests. *See* INA sec. 286(v)(2)(B), 8 U.S.C. 1356(v)(2)(B). Revenue is shared equally among USCIS, Department of State, and Department of Labor. Effective July 25, 2018, USCIS also collects and retains the $50 Commonwealth of the Northern Mariana Islands fraud fee. *See* 48 U.S.C. 1806(a)(6)(iv). DHS interprets Fraud Prevention and Detection Account authority as providing supplemental funding to cover activities related to fraud prevention and detection and not prescribing that only those funds may be used for that purpose. The Fraud Detection and National Security Directorate (FDNS) is funded out of both the IEFA and the Fraud Prevention and Detection Account.

[14] Certain H–1B fees are required by other laws. Revenue is shared among USCIS, DOL, and the National Science Foundation. USCIS receives 5 percent of these funds. USCIS uses the H–1B Nonimmigrant Petitioner Account as supplemental funding for the limited H–1B petition and petition for immigrant worker adjudication activities authorized by statute. *See* INA sec. 286(s)(5), 8 U.S.C. 1356(s)(5). The H–1B Nonimmigrant Petitioner Account does not fully fund the H–1B program at USCIS. As such, USCIS also uses IEFA fees to administer the program. IEFA fees are not required for those limited purposes authorized or required by INA sec. 286(s)(5), 8 U.S.C. 1356(s)(5).

[15] Benefit request means any application, petition, motion, appeal, or other request relating to an immigration or naturalization benefit, whether such benefit is filed on paper form or submitted in an electronic format, provided such request is submitted in a manner prescribed by DHS for such purpose. *See* 8 CFR 1.2.

[16] *See* USCIS, DHS, ''Number of Service-wide Forms, By Quarter, Form Status, and Processing Time, July 1, 2024–Sept. 30, 2024'' (Dec. 18, 2024), *https://www.uscis.gov/sites/default/files/document/data/quarterly_all_forms_fy2024_q4.xlsx.*

[17] USCIS has in the past set fees on a small or individual basis, instead of comprehensively based on all USCIS services. *See, e.g.,* ''Registration Fee Requirement for Petitioners Seeking To File H–1B Petitions on Behalf of Cap Subject Aliens,'' 84 FR 46460 (Sept. 4, 2019) (proposed rule); ''International Entrepreneur Rule,'' 81 FR 60130 (Aug. 31, 2016) (proposed rule); ''Provisional Unlawful Presence Waivers of Inadmissibility for Certain Immediate Relatives,'' 77 FR 19902 (Apr. 2, 2012) (proposed rule).

[18] Carryover balance refers to the unobligated or unexpended fee revenue accumulated from previous fiscal years. *See* 88 FR 402, 417.

[19] DHS must submit annual statements of financial condition of the IEFA Account to Congress, including information on carryover balances, revenues, withdrawals, and projections for the ensuing fiscal year. INA sec. 286(o), 8 U.S.C. 1356(o).

[20] *See* 8 U.S.C. 1356(n) (stating, ''deposits into the Immigration Examinations Fee Account shall remain available until expended'').

[21] *See* OMB Circular A–25, ''User Charges,'' 58 FR 38142 (July 15, 1993) (revising Federal policy guidance regarding fees assessed by Federal agencies for Government services).

[22] *See* OMB Circular A–25, section 5(a) and (b). The primary objective of OMB Circular A–25 is to ensure that Federal agencies recover the full cost of providing specific services to users and associated cost. *See* OMB Circular A–25, 58 FR 38142, 38144. Full costs include, but are not limited to: (1) Direct and indirect personnel costs, including salaries and fringe benefits, such as medical insurance and retirement; (2) Physical overhead, consulting, and other indirect costs, including material and supply costs, utilities, insurance, travel, and rents or imputed rents on land, building, and equipment; (3) Management and supervisory costs; and (4) Cost of enforcement, collection, research, and establishment of standards and regulations. *See id.,* section 6, 58 FR 38142, 38145.

of providing the benefit, as applicable.[23] In addition, DHS adheres to the Statement of Federal Financial Accounting Standards 4 in assessing USCIS' full costs.[24]

C. Screening and Vetting

DHS notes that the work to perform screening and vetting, background checks, site visits, and investigations is needed to properly perform adjudication and naturalization services, and therefore may be recovered as part of full cost recovery. The Secretary, in Homeland Security Delegation No. 0150.1, delegated USCIS the authority to investigate alleged civil and criminal violations of the immigration laws, including but not limited to alleged fraud with respect to applications or determinations by USCIS and to make recommendations for prosecutions, or other appropriate action when deemed advisable. The activities of the Fraud Detection and National Security (FDNS) Directorate fall squarely within this delegation.[25] Conducting anti-fraud, law enforcement, and background checks on every applicant, beneficiary, and petitioner before granting immigration benefits fulfills the USCIS mission of enhancing both national security and the integrity of the legal immigration system. These pre-approval and post-approval screening and vetting activities are sufficiently related to adjudication services to allow their funding from IEFA fees.

D. Activity-Based Costing Methodology

To determine the fees necessary to recover the full costs of adjudication and naturalization services, USCIS employs an Activity-Based Costing (ABC) methodology. This cost accounting method assigns resource costs to operational activities and allocates them to specific immigration benefit requests, including biometric services. USCIS uses commercially available ABC software[26] to create financial models that calculate the cost of each major step in processing benefit requests. This methodology, used in the last fee reviews, forms the basis of the current fee structure and ensures fees recover the full costs of providing services, consistent with 286(m) of the INA, 8 U.S.C. 1356(m).[27]

Building on this foundation, USCIS identifies all major steps involved in processing immigration benefit requests, including intake, biometrics collection, background checks, adjudication, and notification of decisions.[28] Each activity is analyzed to determine the resources consumed, such as personnel time, technology infrastructure, and physical overhead. These resources are then allocated to specific forms and services based on their proportional workload required to deliver the USCIS mission. Furthermore, this methodology accounts for cost drivers that influence the overall expense of processing benefit requests, including application volumes and trends, the complexity of adjudication, inflationary pressures on labor and technology, and policy changes that require operational adjustments. Overhead costs, such as management and oversight, information technology systems, human resources, and legal and regulatory compliance, are also incorporated into the cost model and distributed across all forms and services.

In addition to analyzing operational activities, USCIS conducts a detailed analysis of each form to determine its unique cost structure. Form N–400 involves the following:

Biometric Services and Identity Verification: USCIS collects, stores, uses, and reuses biometric data for aliens seeking naturalization. Biometric services support background checks conducted by the Federal Bureau of Investigation (FBI) and identity verification of aliens applying for naturalization.[29]

Extensive background checks and national security vetting: In addition to FBI fingerprint checks, USCIS runs checks on aliens seeking naturalization through the FBI's National Name Check Program (NNCP). This searches against the FBI's Universal Index (UNI), which contains personnel, administrative, applicant, and criminal files compiled for law enforcement purposes.[30] Background checks also include TECS checks, which compare information on aliens seeking naturalization against various Federal Government systems.[31] Not only does USCIS conduct background checks during adjudication of Form N–400, but also prior to an alien taking the oath of allegiance.[32] FDNS develops policies, procedures, and programs designed to detect, deter, and administratively investigate naturalization fraud; develops and implements security screening policies, programs, and procedures for aliens seeking naturalization; establishes guidance and oversees processes for identifying, reviewing, vetting, and adjudicating cases involving national security concerns; and serves as USCIS' primary conduit for information sharing and collaboration with law enforcement and the Intelligence Community.[33]

[23] *See* OMB Circular A–25, section 6(a)(3), 58 FR 38142, 38145. OMB Circular A–25 specifies that market price is to be used in situations when the Government is not acting as sovereign, which is not the case for immigration benefit requests.

[24] *See* FASAB, Federal Accounting Standards Advisory Board Handbook, Version 23 (09/24), ''Statement of Federal Financial Accounting Standards 4: Managerial Cost Accounting Standards and Concepts,'' SFFAS 4 (July 31, 1995), *https://files.fasab.gov/pdffiles/handbook_sffas_4.pdf* (generally describing cost accounting concepts and standards, and defining ''full cost'' to mean the sum of direct and indirect costs that contribute to the output, including the costs of supporting services provided by other segments and entities); *see also id.* at 49–66 (identifying various classifications of costs to be included and recommending various methods of cost assignment).

[25] DHS, Delegation 00150.1, Delegation to the Bureau of Citizenship and Immigration Services, June 5, 2003, on file with USCIS; *see also* DHS, Delegation 15006, Delegation to Director, USCIS, To Order Expedited Removal and to Enforce Immigration Laws, May 2, 2025, on file with USCIS (delegating authority to investigate alleged civil and criminal violations of the immigration laws within the jurisdiction of USCIS).

[26] USCIS uses CostPerform. For information from the vendor on this commercial, off-the-shelf application, visit *https://www.costperform.com* (last visited Oct. 7, 2025).

[27] Two of the last eight fee reviews did not result in fee changes. However, DHS revised USCIS fees five times based on fee review results that used similar methodology to this one. *See* 72 FR 29851 (May 30, 2007); 75 FR 58962 (Sept. 24, 2010); 81 FR 73292 (Oct. 24, 2016); 85 FR 46788 (Aug. 3, 2020); 89 FR 6194 (Jan. 31, 2024).

[28] DHS summarizes the fee-setting inputs, process, and calculations in this proposed rule and provides detailed analysis of the proposed fees for Form N–400 and Form N–336 in the supporting documentation, which is available in the rulemaking docket for the affected public to read and comment. *See* N–336 and N–400 Fee Review Supporting Documentation, Naturalization Application Fee Adjustments Rule, Notice of Proposed Rulemaking, in the DHS Docket No. USCIS–2026–0265.

[29] *See* 8 CFR 103.2(b)(9), 103.16, 103.17, 335.1 and 335.2; USCIS, DHS, ''USCIS Policy Manual,'' Vol. 12, Citizenship and Naturalization, Part B, Naturalization Examination, Chp. 2, Background and Security Checks, *https://www.uscis.gov/policy-manual/volume-12-part-b-chapter-2* (last updated Dec. 22, 2025).

[30] *Id.*

[31] *See* 73 FR 77778 (Dec. 19, 2008).

[32] *See* INA sec. 337, 8 U.S.C. 1448; USCIS, DHS, ''USCIS Policy Manual,'' Vol. 12, Citizenship and Naturalization, Part J, Oath of Allegiance, Chp. 4, General Considerations for All Oath Ceremonies, Section B. Derogatory Information Received before Oath or Failure to Appear, *https://www.uscis.gov/policy-manual/volume-12-part-j-chapter-4* (last updated Dec. 22, 2025).

[33] USCIS established FDNS in 2004 in response to a Congressional recommendation to establish an organization ''responsible for developing, implementing, directing, and overseeing the joint USCIS-Immigration and Customs Enforcement (ICE) anti-fraud initiative and conducting law enforcement/background checks on every applicant, beneficiary, and petitioner prior to granting immigration benefits.'' Conference Report to accompany H.R. 4567 [Report 108–774], ''Making Appropriations for the Department of Homeland Security for the Fiscal Year Ending September 30, 2005,'' p. 74, *https://www.gpo.gov/fdsys/pkg/CRPT-108hrpt774/pdf/CRPT-108hrpt774.pdf; see also* USCIS, DHS, ''Fraud Detection and Nat'l Security Directorate,'' *https://www.uscis.gov/about-us/organization/directorates-and-program-offices/*

Continued

Interviews: USCIS conducts at least one in-person interview of every alien applying for naturalization, which typically includes administering the English and civics test.[34] Form N–400 adjudications routinely involve multiple interviews by USCIS, such as when the alien fails any portion of the English or civics tests during the first interview,[35] or when the officer needs to take a sworn statement, which may be particularly important in complex cases, such as those involving national security or fraud concerns.[36]

Complicated Adjudication Process: Adjudication of Form N–400 typically includes a full review of the alien's entire immigration history [37] and international travel history during the applicable statutory period (usually 5 years),[38] and an evaluation of the alien's character to ensure that he or she is a person of good moral character (GMC), attached to the U.S. Constitution, and well disposed to the good order and happiness of the United States.[39] Additional adjudication activities can include making and recording adjudicative decisions, requesting and reviewing additional evidence, consulting with supervisors or legal counsel, and researching applicable laws and decisions for non-routine cases. For more on the legal requirements for naturalization, see Section III.F., Background on Naturalization.

Public Oath Ceremony: Most aliens who meet the eligibility requirements for naturalization acquire their citizenship at a public ceremony where they take the oath of allegiance to the United States.[40] USCIS also completes additional background checks before an Oath Ceremony. USCIS conducts ceremonies in such a manner as to preserve the dignity and significance of the occasion.[41]

All of these activities contribute to the processing costs for Form N–400. Form N–336 includes many of the same cost activities, including biometric services and identity verification,[42] and additional background checks and national security vetting.[43] The adjudication process for Form N–336 builds on the complex adjudication process required for Form N–400, since the officer determines whether to conduct a: (1) *de novo* (*i.e.,* new and full) review of Form N–400, or (2) use a less formal review procedure based on the record, the complexity of issues to be reviewed or determined, and upon the necessity of conducting further examinations with respect to essential naturalization requirements.[44] The officer conducting the review administers any portions of the English or civics tests that the alien previously failed.[45] In addition to reviewing the evidence submitted for the underlying Form N–400, the reviewing officer may receive additional evidence and accept new testimony.[46]

To ensure fees are aligned with costs, USCIS uses the ABC methodology to evaluate whether current fees recover the full proportional costs of adjudicating each form. This process involves collecting historical data on processing times, resource use, and application volumes; developing financial models using commercially available ABC software to simulate the cost of processing each form; comparing estimated costs to revenue projections using current fees to identify gaps in cost recovery; and adjusting fees as necessary to ensure full cost recovery. After the ABC model generates cost outputs for every USCIS form, DHS considers adjusting certain fees based on value judgments and public policy reasons consistent with its statutory authority, including sections 286(m) and 344 of the INA, 8 U.S.C. 1356(m) and 1455, and statutory fee exemptions.[47] For example, statutory exemptions for military applicants filing Form N–400 are factored into the fee-setting process to comply with legal requirements.

E. Beneficiary-Pays Principle

The U.S. Government Accountability Office (GAO), an independent, nonpartisan agency that works for Congress, describes the equity of Federal user fees as a balancing act between two principles: beneficiary-pays and ability-to-pay.[48] Under the beneficiary-pays principle, the beneficiaries of a service pay the cost of providing that service.[49] Under the ability-to-pay principle, those who are more capable of bearing the burden of fees pay more for the service than those with less ability to pay.[50] Fee exemptions, fee waivers, and reduced fees for low-income households are based on the ability-to-pay principle. In its 2020 Fee Rule, DHS chose to emphasize the beneficiary-pays

fraud-detection-and-national-security-directorate (last updated May 28, 2025); USCIS, ''Fraud Detection and Nat'l Security Directorate (FDNS),'' May 2022, *https://www.uscis.gov/sites/default/files/document/brochures/FDNS_Brochure_Web_V2_508.pdf.*

[34] INA sec. 312(a), 332, 335, 8 U.S.C. 1423, 1443, 1446; 8 CFR 335.2(a).

[35] *See* 8 CFR 312.5(a).

[36] *See* USCIS, DHS, ''USCIS Policy Manual,'' Vol. 1, General Policies and Procedures, Part E, Adjudication, Chp. 6, Evidence, Sec. D, Types of Evidence, Subsec. 2, Testimonial Evidence, *https://www.uscis.gov/policy-manual/volume-1-part-e-chapter-6* (last updated Dec. 22, 2025).

[37] *See* USCIS, DHS, ''USCIS Policy Manual,'' Vol. 12, Citizenship and Naturalization, Part B, Naturalization Examination, Chp. 3, Naturalization Interview, Section B, Preliminary Review of Application, *https://www.uscis.gov/policy-manual/volume-12-part-b-chapter-3* (last updated Dec. 22, 2025).

[38] *See* INA sec. 316(a), 8 U.S.C. 1427; USCIS, DHS, ''USCIS Policy Manual,'' Vol. 12, Citizenship and Naturalization, Part D, General Naturalization Requirements, Chp. 3, Continuous Residence, and Chp. 4, Physical Presence, *https://www.uscis.gov/policy-manual/volume-12-part-d* (last updated Dec. 22, 2025).

[39] *See* INA sec. 316(a), 8 U.S.C. 1427(a); USCIS, DHS, ''USCIS Policy Manual,'' Vol. 12, Citizenship and Naturalization, Part F, Good Moral Character, *https://www.uscis.gov/policy-manual/volume-12-part-f* (last updated Dec. 22, 2025).

[40] *See* INA sec. 337, 8 U.S.C. 1448.

[41] *See* INA sec. 337, 8 U.S.C. 1448; USCIS, DHS, ''USCIS Policy Manual,'' Vol. 12, Citizenship and Naturalization, Part J, Oath of Allegiance, Chp. 4, General Considerations for All Oath Ceremonies, *https://www.uscis.gov/policy-manual/volume-12-part-j-chapter-4* (last updated Dec. 22, 2025).

[42] *See* 8 CFR 103.2(b)(9); USCIS, Form N–336, ''Instructions for Request for Hearing on a Decision in Naturalization Proceedings Under Section 336,'' *https://www.uscis.gov/n-336* (Apr. 1, 2024 ed.).

[43] *See* 8 CFR 103.2(b)(9); USCIS, Form N–336, ''Instructions for Request for Hearing on a Decision in Naturalization Proceedings Under Section 336,'' *https://www.uscis.gov/n-336* (Apr. 1, 2024 ed.).

[44] *See* 8 CFR 336.2(b); USCIS, DHS, ''USCIS Policy Manual,'' Vol. 12, Citizenship and Naturalization, Part B, Naturalization Examination, Chp. 6, USCIS Hearing and Judicial Review, Section B, Timely Filed Hearing Request, *https://www.uscis.gov/policy-manual/volume-12-part-b-chapter-6* (last updated Feb. 3, 2026).

[45] *See* USCIS, DHS, ''USCIS Policy Manual,'' Vol. 12, Citizenship and Naturalization, Part B, Naturalization Examination, Chp. 6, USCIS Hearing and Judicial Review, Section B, Timely Filed Hearing Request, Subsection 3, English and Civics Testing at Hearing, *https://www.uscis.gov/policy-manual/volume-12-part-b-chapter-6* (last updated Feb. 3, 2026).

[46] *See* 8 CFR 336.2(b); USCIS, DHS, ''USCIS Policy Manual,'' Vol. 12, Citizenship and Naturalization, Part B, Naturalization Examination, Chp. 6, USCIS Hearing and Judicial Review, Section B, Timely Filed Hearing Request, Subsection 2, Review of Application, *https://www.uscis.gov/policy-manual/volume-12-part-b-chapter-6* (Feb. 3, 2026).

[47] DHS may adjust fees and fee methodologies, including based on policy preferences and value judgments, so long as it acts within its statutory authority and provides a reasoned explanation of the adjustment. *See, e.g., FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 513–16 (2009) (''the agency may change policy if it acknowledges the change, offers a rational explanation, and considers any serious reliance interests); *Motor Vehicle Mfrs. Ass'n* v. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29, 43 (1983) (''the agency must examine relevant data and articulate a satisfactory explanation showing a rational connection between the facts found and the choice made'') (internal quotations omitted).

[48] *See* U.S. Gov't Accountability Office (GAO), GAO–08–386SP, ''Federal User Fees: A Design Guide'' (May 29, 2008), *https://www.gao.gov/products/gao-08-386sp; see also* 84 FR 62280, 62298.

[49] *See* GAO, GAO–08–386SP, ''Federal User Fees: A Design Guide,'' pp. 7–12 (May 29, 2008), *https://www.gao.gov/products/gao-08-386sp.*

[50] *See* GAO, GAO–08–386SP, ''Federal User Fees: A Design Guide,'' p. 6 (May 29, 2008), *https://www.gao.gov/products/gao-08-386sp.*

principle. *See* 84 FR 62280, 62298–62299 (Nov. 14, 2019) (2019 Proposed Fee Rule); *see also* 85 FR 46788 (Aug. 3, 2020).[51] In its 2024 Fee Rule, DHS chose to reverse its approach and shift more toward the ability-to-pay principle. *See* 88 FR 402, 424–426; *see also* 89 FR 6194, 6206, 6240–6243. In this rulemaking, DHS proposes to shift toward the beneficiary-pays principle in setting the fees for Form N–400 and Form N–336 because DHS believes it is not only consistent with Congressional intent, but promotes fairness, and is better suited to achieving the President's policy goals regarding naturalization. In addition, the value of naturalization does not justify shifting the cost burden onto other individuals and firms who pay USCIS fees. For full discussion, see section IV.A.

Congress has indicated that the beneficiary-pays principle is appropriate in setting fees for services provided by U.S. government agencies. *See* 31 U.S.C. 9701(a) (''It is the sense of Congress that each service or thing of value provided by an agency . . . to a person . . . is to be self-sustaining to the extent possible.'').[52] The GAO has found that the beneficiary-pays principle helps promote equity by assigning costs to those who both use and benefit from services.[53] The GAO has also noted that the beneficiary-pays principle promotes economic efficiency by ensuring that resources are allocated to the most highly valued user, and that setting a fee too low can induce overuse of agency resources and services.[54] In past USCIS fee rules, DHS has acknowledged that the ability-to-pay principle necessarily requires DHS to shift costs and charge other benefit requestors higher fees so that total fee collections cover total program costs. *See* 88 FR 402, 426. DHS notes that the proposed changes in this rule would not impact the statutorily mandated fee exemptions for Form N–400 and Form N–336 related to military applicants. *See* INA secs. 328(b)(4) and 329(b)(4), 8 U.S.C. 1439(b)(4) and 1440(b)(4).

F. Background on Naturalization

U.S. citizenship confers rights, privileges, and responsibilities that are vital to the security and safety of the United States, a common American identity, and the welfare of the American people. DHS views naturalization as the most meaningful immigration benefit the United States can bestow on an alien.

Under sections 312 and 316 of the INA, 8 U.S.C. 1423 and 1427, and implementing regulations at 8 CFR parts 312 and 316, an alien seeking to become a U.S. citizen must generally:

- Be at least 18 years of age;
- Be lawfully admitted as a permanent resident of the United States;
- Have resided continuously within the United States for a period of at least five years after having been lawfully admitted for permanent residence;
- Have been physically present in the United States for at least 30 months of the five years preceding the date of filing the application;
- Have lived within the state or USCIS district with jurisdiction over the alien's place of residence for at least 3 months prior to the date of filing, or date of the examination if filing early;[55]
- Have resided continuously within the United States from the date of application for naturalization up to the time of admission to citizenship;
- For all relevant time periods mentioned, have been and continue to be a person of GMC, attached to the principles of the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States;
- Demonstrate an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language; and
- Demonstrate a knowledge and understanding of the fundamentals of the history, and of the principles and form of government of the United States.

Congress has enacted additional statutory provisions regarding naturalization requirements for spouses of U.S. citizens, certain employees of U.S. nonprofits working abroad, and current and former armed forces service members and their families. *See* INA secs. 319, 328, and 329, 8 U.S.C. 1430, 1439, and 1440. The vast majority of aliens apply for naturalization by filing Form N–400 with USCIS.[56] If USCIS denies an alien's application for naturalization, the alien may file Form N–336 within 30 days of receipt of the denial to seek a hearing on the denial of the naturalization application before a USCIS officer.[57]

Aliens seeking naturalization bear the burden of establishing by a preponderance of the evidence that they meet all the requirements for naturalization, including the GMC requirement. *See* 8 CFR 316.2(b), 316.10(a)(1). In accordance with section 101(f) of the Act, 8 U.S.C. 1101(f), USCIS evaluates claims of GMC on a case-by-case basis taking into account the elements listed at 8 CFR 316.10, and the standards of the average citizen in the community of residence. 8 CFR 316.10(a)(2). Many factors can affect a GMC determination, *see* 8 CFR 316.10(b), including false claims to U.S. citizenship.[58] False claims to U.S. citizenship are serious violations of immigration law and can bar an alien from naturalization. *See* sections 101(f), and 316(a) of the Act, 8 U.S.C. 1101(f) and 1427(a). Individuals who falsely represent themselves as U.S. citizens, whether for voting, employment, or any other purpose, are generally ineligible to obtain LPR status, *see* section INA 212(a)(6)(C)(ii) of the Act, 8 U.S.C. 1182(a)(6)(C)(ii), which is generally needed to naturalize as a U.S. citizen. *See* section 316(a) of the Act, 8 U.S.C.

[51] The 2019 Proposed and the 2020 Final Fee Rule would have ended the availability of fee waivers for Form N–336, and limited fee waiver availability for Form N–400 to aliens covered by the TVPRA, Special Immigrant Juveniles (SIJs), and Afghan or Iraqi Special Immigrant Visa (SIV) beneficiaries. *See* 85 FR 46788. Although the rule was codified in the CFR, the rule was enjoined by courts before it could take effect. *See Immigrant Legal Res. Ctr.* v. *Wolf,* 491 F. Supp. 3d 520 (N.D. Cal. 2020) (''*ILRC*''); *see also Nw. Immigrant Rts. Project* v. *U.S. Citizenship & Immigr. Servs.,* 496 F. Supp. 3d 31 (D.D.C. 2020) (''*NWIRP*''). The DHS 2024 Fee Rule published on January 4, 2024, and replaced the enjoined regulation.

[52] For purposes of setting fees under subchapter III of title 8, sec. 344, 8 U.S.C. 1455 directs DHS specifically to consider the principles of section 9701 of title 31, in addition to principles governing fee determinations pursuant to section 286(m) of the INA, 8 U.S.C. 1356(m).

[53] GAO, GAO–08–386SP, ''Federal User Fees: A Design Guide'' (May 29, 2008), p. 8, *https://www.gao.gov/products/gao-08-386sp.*

[54] *See* GAO, GAO–08–386SP, ''Federal User Fees: A Design Guide'' (May 29, 2008), *https://www.gao.gov/products/gao-08-386sp;* GAO, GAO–10–560T, ''Federal User Fees,'' Testimony Before the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and Int'l Law, Comm. on the Judiciary, U.S. House of Representatives, Statement of Susan J. Irving (Mar. 23, 2010), *https://www.gao.gov/assets/gao-10-560t.pdf.*

[55] *See* INA sec. 334(a), 8 U.S.C. 1445(a).

[56] *See* USCIS, Form N–400, ''Application for Naturalization,'' *https://www.uscis.gov/n-400* (Jan. 20, 2025 ed.). In addition, the child of a U.S. citizen living abroad who does not acquire citizenship automatically under INA sec. 320, 8 U.S.C. 1431, may file Form N–600K, ''Application for Citizenship and Issuance of Certificate Under Section 322.'' *See* INA sec. 322, 8 U.S.C. 1433; USCIS, Form N–600K, ''Application for Citizenship and Issuance of Certificate Under Section 322,'' *https://www.uscis.gov/n-600k* (Jan. 20, 2025 ed.).

[57] *See* INA sec. 336, 8 U.S.C. 1447; 8 CFR 336.2(a); USCIS, Form N–336, ''Request for a Hearing on a Decision in Naturalization Proceedings Under Section 336,'' *https://www.uscis.gov/n-336* (Apr. 1, 2024 ed.).

[58] *See* INA sec. 101(f), 8 U.S.C. 1101(f); USCIS Policy Manual,'' Vol. 12, Citizenship and Naturalization, Part F, Good Moral Character, Chp. 5, Conditional Bars for Acts in Statutory Period, Sec. M, False Claim to U.S. Citizenship, Unlawful Voter Registration, and Unlawful Voting, *https://www.uscis.gov/policy-manual/volume-12-part-f-chapter-5* (last updated Dec. 22, 2025). For a general overview of the GMC requirement for naturalization, see USCIS Policy Manual,'' Vol. 12, Citizenship and Naturalization, Part F, Good Moral Character, *https://www.uscis.gov/policy-manual/volume-12-part-f* (last updated Dec. 22, 2025).

1427(a). Such actions may lead to removal proceedings and other severe immigration consequences. *See* sections 237(a)(3)(D), (6) of the Act, 8 U.S.C. 1227(a)(3)(D), (6). Additionally, an alien may be subject to federal criminal consequences, including a fine, imprisonment, or both. *See* 18 U.S.C. 611, 1015(e), and 1015(f).

G. Background on Fee Waivers

USCIS' authority to waive its filing fees comes from section 286(m) of the INA, 8 U.S.C. 1356(m), which states that ''fees for providing adjudication and naturalization services may be set at a level that will ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants.'' The Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) requires that USCIS permit certain categories of applicants to apply for fee waivers through final adjudication of adjustment of status.[59] However, neither statute requires USCIS to permit aliens to request fee waivers for Form N–400 or Form N–336. The TVPRA fee waiver requirements only apply ''through final adjudication of the adjustment of status,'' INA sec. 245(l)(7), 8 U.S.C. 1255(l)(7), so the Act does not specifically require fee waivers for naturalization.

In general, only forms listed at 8 CFR 106.3(a)(3) are eligible for fee waivers, and DHS designates these forms through regulation.[60] An alien requesting a fee waiver must submit Form I–912, Request for Fee Waiver, or a written request for a fee waiver. *See* 8 CFR 106.3(a)(2); 89 FR 6194, 6233. Currently, to establish eligibility for a fee waiver, an alien must demonstrate that he or she is unable to pay the fee through one of three criteria: (1) receipt of a means-tested benefit, (2) household income at or below 150 percent of the FPG, or (3) extreme financial hardship. *See* 8 CFR 106.3(a)(1).

H. Recent History of Form N–400 and Form N–336 Fees

1. General Fees

The most recent USCIS Fee Rules, including those that took effect in 2010, 2016, and 2024, have emphasized keeping naturalization fees at levels below cost. *See* 75 FR 33446, 33461–33462 (June 11, 2010) (2010 Proposed Fee Rule); 81 FR 26904, 26915–26916 (May 4, 2016) (2016 Proposed Fee Rule); 88 FR 402, 486–487 (Jan. 4, 2023) (2023 Proposed Fee Rule). DHS has justified these low fees due to the: (1) unique nature of naturalization to the alien; (2) significant public benefit to the United States of newly naturalized citizens; and (3) United States' tradition of welcoming new citizens.

See 75 FR 33446, 33461; 81 FR 26904, 26915–26916; 88 FR 402, 487 (citing 2010 Proposed Fee Rule and 2016 Proposed Fee Rule). DHS has also acknowledged public comments stating that cost can be a prohibitive barrier for naturalization applicants. *See* 88 FR 402, 487. Lower naturalization fees have also been consistent with prior administrations' efforts to promote citizenship and integration. *See* 75 FR 33446, 33461; 81 FR 26904, 26916; 86 FR 8277, 8277; 88 FR 402, 487. Nevertheless, in prior fee rules, DHS acknowledged that limiting naturalization fees leads to the ''subsidization of naturalization by other fee-paying applicants,'' who must pay higher fees so that USCIS can achieve full cost recovery. *See* 75 FR 33446, 33461; 88 FR 402, 487. Table III.1 lays out the current differences in the 2024 Fee Rule's ABC model output costs for the two forms, compared with the current fees.

[59] These include Violence Against Women Act (VAWA) self-petitioners; T and U nonimmigrants; spouses of A, E–3, G, or H nonimmigrants who were battered or subject to extreme cruelty; applicants for VAWA cancellation of removal; and applicants for or aliens who possess temporary protected status (TPS). *See* INA sec. 245(l)(7), 8 U.S.C. 1255(l)(7).

[60] The USCIS Director may authorize additional fee waivers pursuant to 8 CFR 106.3(c).

Table III.1: Form N-400 and Form N-336, Cost Recovery Versus Current Fees

Form	2024 Fee Rule ABC Model Output Cost*	Current General Fee†	Q3 FY 2024 – Q2 FY 2025 Cost/Revenue Gap Estimate (in Millions)[a]
Form N-400, Application for Naturalization (Excluding N-400 Reduced Fee)	$1,137 (paper) $1,097 (online)	$760 (paper) $710 (online)	$82.4 (paper) $232.2 (online)
Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings Under Section 336	$1,275 (paper) $1,246 (online)	$830 (paper) $780 (online)	$0.6 (paper) $1.1 (online)

* *See* USCIS, DHS, "Immigration Examinations Fee Account, Fee Review Supporting Documentation with Addendum" (Nov. 2023), https://www.regulations.gov/document/USCIS-2021-0010-8176. Had DHS chosen to pursue full cost recovery when setting the fees for Form N-400 and Form N-336, the final fees would have been higher than the ABC model output due to cost reallocation, the process of recovering full cost for workloads without fees or the shifting of cost burdens among benefit request fees due to other policy considerations. *See* 88 FR 402, 450-451 (Jan. 4, 2023).

† *See* USCIS, Form G-1055, "Fee Schedule," https://www.uscis.gov/g-1055 (Oct. 28, 2025 ed.).

[a] Receipt data used to calculate cost/revenue gap may differ from the data shown in Section V depending on when the data was queried due to periodic updates to the USCIS fee waiver database. See N-336 and N-400 Fee Review Supporting Documentation, Naturalization Application Fee Adjustments Rule, Notice of Proposed Rulemaking, in the DHS Docket No. USCIS-2026-0265 Appendix Table 3.1 for quarterly revenue data, Appendix Table 3.2 for receipts, and Appendix Table 4 for filing method ratios.

2. Form N–400 Reduced Fee

In its 2016 Fee Rule, DHS created a reduced fee for Form N–400 for low-income aliens who do not qualify for a fee waiver. Originally, to qualify for the reduced fee, the alien's household income had to fall between 150–200 percent of the FPG. *See* 81 FR 73292, 73331 (Oct. 24, 2016) (2016 Fee Rule); 8 CFR 103.7(b)(1)(i)(*1*) (2017). DHS explained that the reduced fee was designed ''to limit potential economic disincentives some eligible applicants may face when deciding whether or not to apply for naturalization,'' and the reduced fee supported its priorities of promoting citizenship and integration. *See* 81 FR 26904, 26916. As with lower fees for naturalization in general, DHS acknowledged that ''other fee payers would be required to bear the cost of the reduced fee,'' but asserted that ''the importance of naturalization justifies this slight shift of burden.'' *Id.* In the 2023 Proposed Fee Rule, DHS proposed to maintain the same income requirements for the reduced fee Form N–400 in its proposed fee schedule. *See* 88 FR 402, 487. However, DHS's 2024 Fee Rule significantly expanded eligibility for the reduced fee by raising the household income ceiling from the proposed 200 percent to 400 percent of the FPG. *See* 8 CFR 106.2(b)(3)(ii). In the 2024 Fee Rule, DHS explained that it was expanding the income requirements due to: public comments and additional stakeholder feedback; the financial gains immigrants obtain with naturalization; and the benefits that the United States obtains from new naturalized citizens (including civic involvement and tax revenues). *See* 89 FR 6194, 6236; *id.* at 6301. DHS further asserted that this change would provide additional relief to longtime residents who struggle to pay naturalization fees without requiring further fee increases for other forms to offset the cost. *See* 89 FR 6194, 6236. As shown in Table V.4, receipts of reduced fee Form N–400s were infrequent prior to the effective date of the 2024 Fee Rule. For FY 2019–23, the 5-year annual average of reduced fees constituted only 0.3 percent of total Form N–400 receipts.[61] While receipts of the reduced fee Form N–400 remain a small portion of total Form N–400 filings, reduced fee filings increased substantially after the 2024 Fee Rule took effect. During the 1-year period after the fee rule's effective date (April 2024–March 2025), reduced fee Form N–400 receipts increased to 3.2 percent of total Form N–400 receipts during that period.[62]

Currently, to qualify for a reduced fee Form N–400, an alien must complete Part 10 of Form N–400 and submit a copy of each household member's most recent Federal tax return.[63] Form N–400 provides alternate methods of substantiating income for household members who do not file Federal tax returns, or whose tax returns do not

[61] FY 2019–2023 5-Year Average of Reduced Fee N–400s = 2,878. *See* Table V.4 in this preamble. FY 2019–2023 5-Year Average of Forms N–400 = 845,986. *See* Table V.3 in this preamble. 2,878 / 845,986 = 0.003 or 0.3 percent.

[62] April 2024–March 2025 Total Reduced Fees = 32,344. *See* Table V.4 in this preamble. April 2024–March 2025 Total N–400 receipts = 1,011,745. *See* Table V.3 in this preamble. 32,344 / 1,011,745 = 0.032 or 3.2 percent.

[63] *See* USCIS, Form N–400, ''Instructions for Application for Naturalization,'' pp. 25–26, *https://www.uscis.gov/n-400* (Jan. 20, 2025 ed.).

properly reflect their income.[64] Currently, a reduced fee Form N–400 can be filed only through paper submission.

Table III.2: Estimated Annual Cost/Revenue Gap* Due to Form N-400 Reduced Fee, Q3 FY 2024 – Q2 FY 2025

Form	Reduced Fee vs. Current General Fee		Reduced Fee vs. 2024 Fee Rule ABC Model Output†	
	Per Filing	Total (in Millions) ‡	Per Filing	Total (in Millions) ‡
Form N-400, Application for Naturalization (paper)*	$380	$4.3	$757	$8.5
Form N-400, Application for Naturalization (online)	$330	$5.9	$717	$12.8

* Because online filing is not available for a reduced fee Form N-400, these figures estimate the cost/revenue gap based on the current ratio of about 61 percent for paper and 39 percent for online filings of all Form N-400 submissions.

†*See* USCIS, DHS, "Immigration Examinations Fee Account, Fee Review Supporting Documentation with Addendum" (Nov. 2023), https://www.regulations.gov/document/USCIS-2021-0010-8176.

‡ Receipt data used to calculate cost/revenue gap may differ from the data shown in Section V. depending on when the data was queried due to periodic updates to the USCIS fee waiver database. N-400 Reduced Fee fee-paying volume data for Q3 FY 2024 through Q2 FY 2025 used for these calculations is derived from revenue collections, which differs from the receipt source used in Section V. In the table above, USCIS divided the final monthly revenue amounts by the $380 fee to derive total fee-paying volume for the N-400 Reduced Fee for the 12-month period. The fee-paying receipts and total receipts for N-400 Reduced Fee are different due to timing differences between revenue recording and receipt recording. *See* N-336 and N-400 Fee Review Supporting Documentation, Naturalization Application Fee Adjustments Rule, Notice of Proposed Rulemaking, in the DHS Docket No. USCIS-2026-0265 Appendix Table 3.1 for quarterly revenue data, Appendix Table 3.2 for receipts, and Appendix Table 4 for filing method ratios.

3. Fee Waivers for Form N–400 and Form N–336

Historically, forms related to citizenship and naturalization (including Form N–400 and Form N–336) have been eligible for fee waivers. *See, e.g.,* 8 CFR 103.7(c) (1997). In its most recent comprehensive fee rule, DHS maintained the availability of fee waivers for Form N–400 and Form N–336. 8 CFR 106.3(a)(3)(iii)(H) and (I). Table III.3 below shows the annual cost/revenue gap resulting from fee waivers for Form N–400 and Form N–336, in comparison to the current general fees and the 2024 Fee Rule ABC model outputs for both forms.

[64] *See* USCIS, Form N–400, ''Application for Naturalization, and Instructions,'' pp. 25–26, *https://www.uscis.gov/n-400* (Jan. 20, 2025 ed.).

Table III.3: Annual Cost/Revenue Gap Due to Fee Waivers for Form N-400 and Form N-336, Q3 FY 2024 – Q2 FY 2025[*] (in Millions)

Form	Fee Waiver[†] vs. Current General Fee	Fee Waiver[†] vs. 2024 Fee Rule ABC Model Output Cost
Form N-400, Application for Naturalization	$44.0 (paper) $65.2 (online) $109.2 Total	$65.8 (paper) $100.8 (online) $166.6 Total
Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings Under Section 336	$0.2 (paper) $0.3 (online) $0.5 Total	$0.3 (paper) $0.4 (online) $0.7 Total

[*] Because an applicant cannot request a fee waiver for Form N-400 through online submission, these figures estimate whether these applicants would otherwise file via paper or online based on the rates of online/paper submissions for all Forms N-400.

[†] Receipt data used to calculate cost/revenue gap may differ from the data shown in Section V. depending on when the data was queried due to periodic updates to the USCIS fee waiver database. Fee waiver data for Q3 FY 2024 through Q2 FY 2025 queried from USCIS Fee Waiver database in August 2025. *See* N-336 and N-400 Fee Review Supporting Documentation, Naturalization Application Fee Adjustments Rule, Notice of Proposed Rulemaking, in the DHS Docket No. USCIS-2026-0265, Appendix Table 3.3 for quarterly fee waiver data and Appendix Table 4 for filing method ratios.

I. Review of Form N–400 and Form N–336 Fees and Calculation of Proposed Fees

DHS and USCIS use the biennial fee review process to capture any changes in operating costs and non-premium form fees across the USCIS enterprise. When conducting a fee review to determine whether current immigration and naturalization benefit fees will generate sufficient revenue to fund the anticipated operating costs associated with administering the nation's legal immigration system, USCIS usually assesses its recent operating environment to determine the appropriate method to assign costs to immigration benefit requests. For this proposed rule, USCIS is leveraging the FY 2026/2027 IEFA Fee Review (completed November 24, 2025) to propose updated fees for Form N–400 and Form N–336 that better reflect the agency's latest cost projections.

USCIS has reviewed recent Form N–400 and Form N–336 revenue collections of fee-paying receipts and compared them to their estimated costs based on the ABC model output unit costs from the 2024 Fee Rule. The results were localized average shortfalls of −$336.6 million and −$1.6 million annually, respectively. In the 2024 Fee Rule, DHS decided to limit the fee increases for these forms to 19 percent for paper and 11 percent for online filings, while continuing to hold the fees below their estimated cost. 89 FR 6194, 6203–6204 (Table 1).

Table III.4: Form N-400 and Form N-336 Estimated Cost Differential, Q3 FY 2024 – Q2 FY 2025 ($ in Millions)

Form	Fee-Paying Receipts	Actual Revenue	Estimated Cost*	Cost Differential (Rounded)
Form N-400 Online	600,021	$426.0	$658.2	-$232.2
Form N-400 (Including Reduced Fee Revenue†) Paper	247,673	$177.2	$281.6	-$104.4
Form N-336 Online	2,283	$1.8	$2.8	-$1.1
Form N-336 Paper	1,292	$1.1	$1.6	-$0.6

* USCIS does not track activity-based "actual" costs per form type. Estimated cost reflects the ABC Model Output Unit Costs used in the 2024 Fee Rule.

† Form N-400 Paper in Table III.4 includes all N-400 reduced fee receipts derived from actual revenue collections. Fee-paying receipts of 247,673 are the sum of 218,627 N-400 full-fee derived receipts plus 29,047 N-400 reduced-fee derived receipts. This is different from Table III.2 as that includes a representation of comparing a portion of the N-400 reduced fee receipts to the N-400 online fee and to the ABC cost of N-400 forms submitted online, which is not currently available for N-400 reduced fee applicants. *See* N-336 and N-400 Fee Review Supporting Documentation, Naturalization Application Fee Adjustments Rule, Notice of Proposed Rulemaking, in the DHS Docket No. USCIS-2026-0265 Appendix Table 3.1 for quarterly revenue data, Appendix Table 3.2 for receipts, and Appendix Table 4 for filing method ratios.

Based on these observed revenue shortfalls and the likelihood that the costs for Form N–400 and Form N–336 will continue to grow as explained in Section IV.F of this proposed rule, USCIS expects the cost/revenue gap to continue widening if not addressed soon.

To calculate the proposed fees for Form N–400 and Form N–336, DHS relied on projected volumes estimated by the USCIS Volume Projection Committee (VPC), the projected cost data from its FY 2026/2027 biennial review, updated completion rates, and the results from the ABC model.

1. Volume

USCIS generally uses two types of volume data to conduct fee reviews: workload and fee-paying volume. Workload volume is a projection of the total number of immigration benefit requests that USCIS would receive in a fiscal year. Fee-paying volume, on the other hand, is a projection of the number of benefit requestors that would pay a fee when filing requests for immigration benefits.

The workload volume forecasts are agreed upon by USCIS' VPC. The mission of the VPC is to facilitate workload and fee projection, data stakeholder collaboration, communication, and coordination of critical business decisions about projected workload. All relevant USCIS directorates and program offices are represented in the VPC. This intra-agency group provides a forum for making enterprise-wide decisions about projected workload supported by input from knowledgeable subject matter experts from within USCIS, and information provided by other governmental agencies. At VPC meetings, the committee members deliberate on the provided workload forecast, consider alternatives and recent events that may not yet be reflected in the projections, and agree to a workload forecast by group consensus. The scope of authority of the VPC includes but is not limited to:

- Assessing and documenting current USCIS workload projection methodologies;
- Benchmarking and documenting workload projection methodologies, assumptions, or projection methodologies applied to similar entities in use by other government agencies and the private sector;
- Comparing VPC projections versus actual figures to determine what factors may account for material variances and to better refine its forecasting approach;
- Vetting each identified projection methodology through legacy USCIS workload data to determine its efficacy for use in developing workload projections up to 7 years in the future; and
- Initiating and maintaining biannual meetings to update workload forecasts.

The VPC estimates USCIS annual workload volumes using historical and recent volume trends, statistical forecasts, and subject-matter expertise from various USCIS directorates and program offices, including USCIS service centers, the National Benefits Center, and regional, district, and field offices. Workload volume is a key element used to determine the USCIS resources needed to process immigration benefit requests, such as Form N–400 and Form N–336. Workload volume is the primary cost driver for assigning activity costs to immigration benefit requests. Table III.5 shows the projected average annual volumes for Form N–400 and Form N–336:

Table III.5: Projected Average Annual Volume for Form N-400 and Form N-336 for the FY 2026/2027 Biennial Period

Form	VPC Average Annual Volume Projection
Form N-400 Application for Naturalization (Regular)	853,282
Form N-400 Application for Naturalization (Military)	22,917
Form N-336 Request for a Hearing on a Decision in Naturalization Proceedings Under Section 336	3,512

USCIS generally projects fee-paying volumes by applying a historical and form-specific fee-paying rate to the projected volumes. In some cases, USCIS may modify the projected fee-paying rate to address certain policy changes that could affect the number of fee-paying receipts in the future. As previously stated, USCIS is proposing to eliminate all fee waivers for Form N–400 and Form N–336 but keeping the fee exemptions for military eligible under section 328 or 329 of the INA, 8 U.S.C. 1439, 1440, applicants in this rule. Thus, the fee-paying volume for these forms is now expected to be closer to a 100-percent rate. Fee-paying receipts under the current assumptions from the 2024 Fee Rule are shown in Table III.7 in the Revenue Forecast section.

2. Cost Projections

DHS used updated cost projections for the FY 2026/2027 biennial period for this rule. In developing this biennial cost projection, all IEFA non-premium costs were considered, accounting for payroll and non-payroll for on-board and new staff, inflation, resource requirements or adjustments, and the removal of costs associated with temporary programs. USCIS started with its general FY 2025 Operating Plan, which was slightly adjusted for some Return to Workplace costs estimated for the remainder of the fiscal year. USCIS then made the following adjustments in this review:

- Added staffing based on the FY 2026 and FY 2027 Staffing Allocation Model (SAM) enhancements and a non-SAM enhancement request for FDNS, for a total of 6,045 new positions across most USCIS offices by the end of FY 2027. The SAM enhancements incorporate the effect of recent Executive Orders, as well as the most recent agency completion rate estimates. The FDNS non-SAM enhancement of 167 positions in FY 2025 was approved to start ramping up hiring in response to Executive Orders 14157 and 14161,[65] with the overall goal to enhance USCIS' vetting and screening capabilities and an average cost of $35.4 million per year. The FDNS SAM includes 574 positions with an average cost of $93.8 million per year over the biennial period to continue the implementation of those Executive Orders;
- Accounted for pay inflation and promotions/within-grade increases, which includes annual Federal employee pay and cost of living adjustments. The assumed inflation rate was 3 percent for FY 2026 and FY 2027; and
- Considered net additional costs, such as the costs of additional budget items. For example, USCIS added the cost of fully taking over lockbox operations during the biennial period ($231.1 million), the building of the new National Records Center ($114.7 million), and the new Voter Verification System ($75.3 million).

Table III.6 is a summary from the FY 2025 IEFA non-premium annual operating plan to the FY 2026/2027 annual average cost projection. The FY 2026/2027 annual average cost projection is estimated to be $6,659.1 million.

Table III.6: FY 2026/2027 IEFA Non-Premium Cost Projection (in Millions)

Total Adjusted FY 2025 IEFA Non-Premium Operating Plan	**$5,037.8**
Plus: Pay and Inflation and Promotions/Within-Grade Increases	$349.9
Plus: Net Additional Costs	$1,101.7
Total FY 2026 Cost Projection	**$6,489.4**
Plus: Pay Inflation and Promotions/Within-Grade Increases	$161.0
Plus: Net Additional Costs	$178.4
Total FY 2027 Cost Projection	**$6,828.7**
FY 2026/2027 Annual Average Cost Projection	**$6,659.1**

3. Revenue Forecast

As previously mentioned, USCIS uses the final volume projections from the VPC to predict future revenue collections for all fee-paying immigration benefit requests. Then, USCIS applies the forecast fee-paying rate to calculate fee-paying receipts, which are then multiplied by the current fees to arrive at the final revenue forecast by form.

USCIS is leveraging the average of its final FY 2026 and preliminary FY 2027 Revenue Forecasts for this Form N–400 and Form N–336 fee review. The forecast uses a fee-paying rate of 77 percent for Form N–400, and a 100-

[65] 90 FR 8439 (Jan. 29, 2025); 90 FR 8451 (Jan. 30, 2025).

percent rate for the Form N–400 Reduced Fee, which reflects the effect of the 2024 Fee Rule, as well as current fee waiver and fee exemption policies. Form N–336's fee-paying rate is 80 percent using the same assumptions. Table III.7 has the resulting fee-paying receipts after applying those fee-paying rates to the VPC's volumes [66] for Form N–400 and Form N–336 as well as the FY 2026/2027 biennial average revenue projections. The revenue forecast for Form N–400 totals $471.9 million and $2.2 million for Form N–336.

Table III.7: Form N-400 and Form N-336 FY 2026/2027 Average Revenue Forecast with Current IEFA Fees

Form	Forecasted Fee-Paying Receipts*	Revenue with Current IEFA Fees (in Millions)
Form N-400 Paper	194,596	$147.9
Form N-400 Online	442,011	$313.8
Form N-400 Reduced Fee	26,932	$10.2
Total Form N-400	**663,539**	**$471.9**
Form N-336 Paper	1,008	$0.8
Form N-336 Online	1,809	$1.4
Total Form N-336	**2,817**	**$2.2**

* Fee-paying volume does not account for the $7.5 million reimbursement from Department of War (DOW), also known as the "Department of Defense." *See* 90 FR 43893 (Sept. 5, 2025).

4. Results of Form N–400 and Form N–336 Fee Review

USCIS determined that, at current fee levels, projected costs for Form N–400 and Form N–336 workloads in this fee review far exceed projected revenue.

After resource costs are identified, the ABC model distributes them to USCIS' primary processing activities. See the supporting documentation in the docket of this rulemaking for more information on the ABC model, activities, and results described in this section. Next, the ABC model distributes activity costs to immigration benefit requests. Each total cost result is based on the resources, activities, and various drivers that contribute to the estimated cost of its completion. The ABC model estimates total cost before calculating unit costs.

DHS determined the FY 2026/2027 ABC model cost estimates for Form N–400 and Form N–336, which include the cost of military filings under section 328 or 329 of the INA, 8 U.S.C. 1439, 1440. DHS expects the overall cost of military naturalizations to exceed DOW's annual reimbursement of $7.5 million for the FY 2026/2027 biennial period. *See* 10 U.S.C. 1790. Therefore, DHS is accounting for the full cost of all Form N–400 receipts, including military naturalizations, but reducing the total Form N–400's ABC model output cost by $7.5 million to account for the annual reimbursement. By doing this, non-military Form N–400 applicants would cover the additional cost not reimbursed for current and former military applications qualified under section 328 or 329 of the INA, 8 U.S.C. 1439, 1440. Similarly, DHS would continue to grant a fee exemption for current and former military applicants for Form N–336. The ABC model output cost for Form N–336 accounts for the full cost of all Form N–336 receipts. Apart from these cost reallocations, DHS did not reallocate any other costs to the proposed fees for Form N–400 and Form N–336 from other non-fee paying USCIS workloads or from forms with fees held below cost at this time. *See* 89 FR 6194, 6227–6232 (Table 5C).

To focus the ABC model and fee review results on the Form N–400 and Form N–336 workloads specifically, DHS developed Table III.8 of this preamble. The table compares the new total ABC model's projected costs for each form to their respective revenue forecasts, which are based on current IEFA fees and fee waiver policies as previously mentioned. The total FY 2026/2027 biennial average ABC Model output cost for Form N–400 is $1,107.9 million and $5.1 million for Form N–336. When comparing those costs to the current FY 2026/2027 average revenue projections, the result is a projected shortfall of −$636.0 million or –135 percent for Form N–400 and −$2.8 million or –126 percent for Form N–336 under the current fee structure.

[66] The VPC does not forecast volumes by filing method (paper or online), nor for the Form N–400 Reduced Fee. USCIS applies an estimated ratio based on historical receipts to split online and paper volumes and applies a ratio of Form N–400 Reduced Fee's fee-paying receipts to total Form N–400 fee-paying receipts to calculate the N–400 Reduced Fee volume.

Table III.8: Form N-400 and Form N-336 FY 2026/2027 Average Revenue with Current IEFA Fees Compared to Total ABC Model Costs (in Millions)

Form	Revenue with Current IEFA Fees	Total Cost from ABC Model	Difference	
Form N-400 (including Reduced Fee)	$472.0	$1,107.9	-$636.0	-135%
Form N-336	$2.2	$5.1	-$2.8	-126%

IV. Discussion of Proposed Rule

With this rulemaking, DHS proposes three regulatory changes:

(1) Adjust the fees for Form N–400 and Form N–336;[67]

(2) Remove the option of requesting a reduced fee for aliens who seek to file a Form N–400;[68] and

(3) Remove the availability of fee waivers for both Form N–400 and Form N–336.[69]

A. Full Cost Recovery for Form N–400 and Form N–336 Fees

DHS proposes to increase the general paper filing fee for Form N–400 from $760 to $1,330, a $570 or 75-percent increase.[70] DHS also proposes to increase the general paper filing fee for Form N–336 from $830 to $1,475, a $645 or 77.7-percent increase. *See* proposed 8 CFR 106.2(b)(2) and (3). DHS is not proposing to change the current $50 discount for filing Form N–400 and Form N–336 online.[71] The online filing fee for Form N–400 would increase from $710 to 1,280, a $570 or 80-percent increase. The online filing fee for Form N–336 would increase from $780 to $1,425, a $645 or 83-percent increase. Consistent with the beneficiary-pays principle, this proposed rule would set the fees for Form N–400 and Form N–336 at levels that recover their full costs, including the increasing cost of processing both forms since USCIS' FY 2022/23 IEFA Fee Rule. The fee increase for Form N–400 also would cover the difference between DOW's reimbursement for military Form N–400 applications, *see* 10 U.S.C. 1790, and the projected cost of the military Form N–400 filings, while the fee increase for Form N–336 would cover the projected cost of military N–336 filings.

Table IV.1: Form N-400 and Form N-336 Proposed Fees and New Forecasted Average Annual Fee-Paying Volumes

Form	Proposed Fee	New Forecasted Average Annual Fee-Paying Volume*
Form N-400 Paper	$1,330	329,797
Form N-400 Online	$1,280	523,485
Form N-336 Paper	$1,475	1,549
Form N-336 Online	$1,425	1,959

* New forecasted fee-paying volumes are estimated by converting fee waivers and estimated reduced fee filings from the original fee-paying volume forecasts into full fee-paying volumes. Military filings will continue to be fee-exempt and excluded from the fee-paying volumes.

Prior fee rules, including the 2024 Fee Rule, *see* Section III.H, set the fees for Form N–400 and Form N–336 below the ABC model output costs for both forms for policy reasons.[72] Lower fees for Form N–400 and Form N–336 deviate from the general principle that each agency service should be self-sustaining, *see* 31 U.S.C. 9701(a), and they require USCIS to raise fees for other benefit requests to make up the difference, as acknowledged in prior rulemakings. *See* 84 FR 62280, 62316; 88 FR 402, 487; *see also* Section III.H, Table III.1. Here, DHS proposes to align the fees for Form N–400 and Form N–336 with the relative burden on USCIS of processing them and recover the costs directly from the adjudications that cause those costs to be incurred. The fees proposed for Form N–400 and Form N–336 in this rule would further ensure full cost recovery as authorized by law and may limit

[67] *See* proposed 8 CFR 106.2(b)(2) and (3). Form N–400 and Form N–336 will remain fee exempt ($0) for members of the U.S. armed forces seeking to naturalize under INA sec. 328 or 329, 8 U.S.C. 1339 or 1440.

[68] *See* proposed 8 CFR 106.2(b)(3).

[69] *See* proposed 8 CFR 106.3(a)(3)(i).

[70] DHS does not propose to modify the fee for Form N–600K, Application for Citizenship and Issuance of Certificate Under Section 322, at this time. Although INA sec. 322, 8 U.S.C. 1433, is also a naturalization statute, the Form N–600K was not priced below the cost of processing the form in the previous fee rule (89 FR 6194 (Jan. 31, 2024)). *Compare* 8 CFR 106.2(b)(8), *with* USCIS, DHS, ''Immigration Examinations Fee Account, Fee Review Supporting Documentation with Addendum'' (Nov. 2023), *https://www.regulations.gov/document/USCIS-2021-0010-8176*.

[71] *See* 8 CFR 106.1(g). Any changes to the online filing discounts would be reviewed in future rulemaking.

[72] The 2010 Fee Rule established a fee of $595 for Form N–400 but would have had to raise the fee to $655 to recover the full cost. *See* 75 FR 33446, 33462–33463 (June 11, 2010). The 2016 Fee Rule established a fee of $640 for Form N–400, but would have had to charge, together with the biometric services fee, $946 to cover the full cost. *See* 81 FR 73292, 73307 (Oct. 24, 2016) (2016 Fee Rule). In the 2024 Fee Rule, the fee was $760, although the full costs assessed was $1,135 based on paper filings. *Compare* 8 CFR 106.2(b)(3), *with* USCIS, DHS, ''Immigration Examinations Fee Account, Fee Review Supporting Documentation with Addendum'' (Nov. 2023), *https://www.regulations.gov/document/USCIS-2021-0010-8176*.

increases to other USCIS forms in future, comprehensive, fee rules.

The fees proposed in this rule are consistent with DHS's statutory authorities in section 286(m) and 344 of the INA, 8 U.S.C. 1356(m) and 1455, and longstanding guidance of OMB Circular A–25, which directs agencies to recover their full costs. In past rules, DHS maintained lower fees for Form N–400 and Form N–336 and provided for fee waivers using its broad discretionary authority to set and adjust fees for the services that USCIS provides. *See* INA sec. 286(m) and 344, 8 U.S.C. 1356(m) and 1455.[73] Similarly, while section 344 of the INA, 8 U.S.C. 1455, requires the Secretary to charge a fee and requires DHS to deposit the fee in accordance with section 286(m) of the INA, 8 U.S.C. 1356(m), it specifies that the prescribed fee should be set in accordance with the principles outlined in 31 U.S.C. 9701, including that they are ''subject to policies prescribed by the President'' and that each charge shall be ''fair; and based on—the costs to the Government; the value of the service . . .; public policy or interest served; and other relevant facts.'' *See* 31 U.S.C. 9701.[74] Furthermore, Congress, in section 103 of the INA, 8 U.S.C. 1103, delegated to DHS general, broad authority to administer and enforce immigration laws in title 8 of the United States Code, which includes section 286(m) of the INA, 8 U.S.C. 1356(m). Thus, DHS believes the proposed fee adjustments are permissible by statute.

DHS proposes new fees for Form N–400 and Form N–336 that are set in accordance with the beneficiary-pays principle because, as explained in this rule, DHS believes the beneficiary-pays principle is consistent with congressional intent, promotes fairness in comparison to other USCIS filings fees, and is better suited to achieving the President's policy goals regarding naturalization.

The beneficiary-pays principle is consistent with section 286(m), which allows for full cost recovery, and 344 of the Act, 8 U.S.C. 1455, which (via reference to 31 U.S.C. 9701) also allows self-sustaining cost recovery and service fee uniformity.[75] While the IOAA instructs DHS to consider other factors when setting fees, including ''public policy or interest served,'' 31 U.S.C. 9701(b)(2)(C), and the INA allows DHS to charge reduced fees or no fees for certain benefits, such as asylum, 286(m) of the INA, 8 U.S.C. 1356(m), neither statute requires DHS to adhere to the ability-to-pay principle. Thus, DHS believes the beneficiary-pays approach for setting fees is consistent with the IOAA by setting fees at a level needed to be self-sustaining, while also consistent with the INA by basing fees on the authority to recover the costs of operating USCIS. In past fee rulemakings, when DHS set certain fees below costs (such as Form N–400), it provided justification for departing from the beneficiary-pays principle, but when those same rules adhered to the ABC total cost recovery model to set fees, DHS did not explain that by doing so it was using the beneficiary-pays principle.[76] DHS believes that the INA and the IOAA taken together support setting naturalization application fees based on the concept that those who receive the benefit should pay the cost of the services that they require, and those who do not use a service should not be obligated to pay for it. Thus, using the beneficiary-pays principle for setting USCIS fees is permitted by statute.

Having reexamined whether or not DHS should continue charging lower fees for Form N–400 and Form N–336 and shifting those costs to other benefit requests, DHS now believes aliens filing these forms should pay the full cost of adjudication. As stated previously, U.S. citizenship is the most meaningful immigration benefit the United States can bestow on an alien. However, keeping the fees for Form N–400 and Form N–336 below cost requires DHS to shift the costs not covered by those fees to the fees paid for other forms. DHS no longer believes that the importance of naturalization sufficiently justifies funding naturalization from the fees paid for other immigration benefits. Upon reconsideration, DHS now believes that the great value of citizenship is why naturalization application fees should be set at the amount needed for total cost recovery using ABC.

In prior rulemakings, DHS explained that the act of requesting and obtaining U.S. citizenship deserves special consideration given the unique nature of this benefit to the individual applicant, the significant public benefit to the Nation, and the Nation's proud tradition of welcoming new citizens. *See* 75 FR 33446, 33461; 81 FR 26904, 26915–26916; 88 FR 402, 487 (citing 2010 Proposed Fee Rule and 2016 Proposed Fee Rule). DHS stated that keeping the naturalization fee at lower levels would allow more immigrants to fully participate in civic life and would help promote citizenship and immigrant integration. *See* 88 FR 402, 487. DHS reasoned that setting the Form N–400 fee at an amount less than its estimated costs and shifting those costs to other fee payers was appropriate and rational considering the significant value that the United States obtains from the naturalization of new citizens. *Id.*

Although DHS still believes naturalization is the most meaningful immigration benefit the United States can bestow on an alien, and it provides significant benefits to new U.S. citizens,[77] DHS also believes other benefit requests provide significant benefits to alien applicants and

[73] ''[F]ees for providing adjudication and naturalization services *may* be set at a level that *will* ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants. Such fees *may* also be set at a level that will recover any additional costs associated with the administration of the fees collected.'' INA sec. 286(m), 8 U.S.C. 1356(m) (emphasis added). ''In a case involving an agency, of course, the statute's meaning may well be that the agency is authorized to exercise a degree of discretion. For example, some statutes 'expressly delegate' to an agency the authority to give meaning to a particular statutory term. Others empower an agency to prescribe rules to 'fill up the details' of a statutory scheme, or to regulate subject to the limits imposed by a term or phrase that 'leaves agencies with flexibility,' such as 'appropriate' or 'reasonable.' '' *Loper Bright Enterprises* v. *Raimondo,* 144 S. Ct. 2244, 2263 (2024) (internal citations omitted); *see also Paz* v. *Mayorkas,* 767 F. Supp. 3d 368, 378 (E.D. Tex. 2025) (''§ 1356(m) uses the word 'may' twice, and this word is understood to have a discretionary import.'') (citing to *Kucana* v. *Holder,* 558 U.S.C. 233 (2010)).

[74] The Independent Offices Appropriations Act (IOAA) codified at 31 U.S.C. 9701, grants Federal agencies authority to assess user fees. The fees collected under the IOAA are generally deposited in the general fund of the U.S. Treasury and are not directly available to the agency; however, INA sec. 344, 8 U.S.C. 1455, requires DHS to deposit the fees in the IEFA, which is available for use by USCIS until expended.

[75] *See* 31 U.S.C. 9701; *see also* Public Law 97–258 (HR 6128), sec. 9701(a) (1982). The House Report indicates that the general purpose of the bill was to restate in comprehensive form, without substantive change, certain general and permanent laws related to money and finance. *See* H.R. Rep. 97–651, 1 (July 21, 1982).

[76] *Compare* 75 FR 33446, 33461–33462 (explaining why ''the act of requesting and obtaining U.S. citizenship deserves special consideration,'' and therefore the Form N–400 fee should be set a level below the ABC model output), *with id.* at 33472–33478 (generally not addressing whether to depart from the beneficiary-pays principle for most other forms); *compare* 88 FR 402, 485–487 (explaining why DHS proposed to limit the fee increase to Form N–400 and shift costs to other fee payers), *with id.* at 517–530 (generally not addressing whether to depart from the beneficiary-pays principle for most other forms).

[77] *See, e.g.,* Madeleine Sumption & Sarah Flamm, ''The Economic Value of Citizenship for Immigrants in the United States,'' Migration Policy Institute (Sept. 2012), *https://www.migrationpolicy.org/sites/default/files/publications/citizenship-premium.pdf.* However, research has noted that some of the apparent economic benefits of naturalization are due to other factors: ''naturalized immigrants have higher levels of education, better language skills, and more work experience in the United States.'' *Id. at 1.*

beneficiaries;[78] these aliens should not have to pay higher fees to subsidize naturalization. While newly naturalized citizens may provide benefits to the United States,[79] so do the recipients of other immigration benefits, such as immigrant and nonimmigrant visas.[80] U.S. citizens who file family-based visa petitions benefit directly from their ability to reunite with alien relatives, while employment-based petitioners benefit directly from their new employees. In contrast, the benefits of naturalization, such as increased civic participation or tax revenue (*see* 89 FR 6194, 6300) may be less immediate, more uncertain, and more dispersed. Furthermore, while the United States has a history of accepting new citizens, it also has a history of accepting lawful immigrant and nonimmigrant aliens. *See generally* INA secs. 201 and 214, 8 U.S.C. 1151 and 1184. Some of the forms that are currently subject to fees substantially higher than their ABC model outputs include:

- Form I–129F, Petition for Alien Fiancé(e),
- Form I–130, Petition for Alien Relative,
- Form I–131, Application for Travel Documents, Parole Documents, and Arrival/Departure Records,
- Form I–140, Immigrant Petition for Alien Workers,
- Form I–485, Application to Register Permanent Residence or Adjust Status,
- Form I–765, Application for Employment Authorization.[81]

DHS further recognizes that the lower fees for Form N–400 and Form N–336 shift some costs from present naturalization applicants to future naturalization applicants.[82] That is, some of the resulting fee increases are borne by future Form N–400 applicants and their families, which impacts their ability to save for future naturalization fees. As articulated by one public comment on the 2023 Proposed Fee Rule:

> [T]he NPRM asserts that the naturalization fee is being set ''at an amount less than its estimated costs,'' arguing that ''shifting those costs to other fee payers was appropriate in order to promote naturalization and immigrant integration.'' This stance gets the principle of immigrant integration backward. Given that a green card is a prerequisite to naturalization, and a nonimmigrant visa is often a de facto prerequisite for a green card in many cases, raising fees for these categories prevents immigrant integration. USCIS should prioritize getting immigrants in a position where they are eligible to naturalize if it cares about integration. Other applicants should not have to bear the cost of naturalization when it is more pressing for them to receive green cards or other statuses in the United States.

So, while lower naturalization application fees may temporarily support naturalization efforts, due to USCIS' funding structure, there is no evidence that they result in a sustained increase in naturalization rates in comparison to fees that reflect the actual cost of adjudication.

As explained further in Section V.A.7 (Price Elasticity), while increasing naturalization fees may temporarily decrease naturalization application rates for some aliens, past fee increases have not led to long-term declines in overall naturalization application rates. *See also* Supporting and Related Material, N–400 Receipts by Fiscal Year and Effective Dates of New Fee Schedules FY 2006–FY 2025 (through August 30, 2025).[83] As the timeline of USCIS fee schedules shows, increases in fees for Form N–400 have not typically been followed by declines in Form N–400 filings. While USCIS did temporarily see a sharp decline in filings in Q1 of FY 2008 following the 80-percent increase to the Form N–400 fee that took effect on July 30, 2007, DHS believes that short-term, steep decline was the recoil effect from the surge of applications submitted during the leadup to the fee increase, which was announced on February 1, 2007.[84] Furthermore, some of the ensuing drop off was likely due to LPRs' diminishing economic prospects during the Great Recession, which began a few months after the Form N–400 fee increased.[85] Within approximately 2 years after the Form N–400 fee increased, Form N–400 filing rates returned to their historical levels.

In addition because aliens applying for naturalization must possess LPR status (unless applying under a fee-exempt military statute), they already possess the ability to live and work in the United States indefinitely. While naturalization brings additional privileges (for example, the ability to vote in Federal elections and serve on juries), these benefits are not as critical to the immediate wellbeing of aliens as other immigration benefits, such as those bestowing humanitarian or protection-based status. DHS now believes that, because the need to naturalize is generally less immediate in comparison to other benefit requestors who face potential removal due to lack of lawful status (*see* INA sec. 237(a)(1)(B), 8 U.S.C. 1227(a)(1)(B)) or lack authorization to seek employment (*see* INA sec. 274A, 8 U.S.C. 1324a), below-cost fees are generally less necessary for filing for naturalization.

Finally, although DHS proposes to shift away from the ability-to-pay principle in this proposed rule, DHS notes that lower fees for Form N–400 and Form N–336 are not supported by the ability-to-pay principle either.[86] The general eligibility requirements for naturalization under section 316 of the INA, 8 U.S.C. 1427, require aliens to have continuously resided in the United States for 5 years after lawful admission for permanent residence,[87] during which they are authorized to accept employment. *See* 8 CFR 274a.12(a)(1). Having continuously resided in the United States with employment

[78] *See, e.g.,* Miao Chi & Scott Drewianka, ''How much is a green card worth? Evidence from Mexican men who marry women born in the U.S.,'' Labour Economics Vol. 31, 103–116 (Dec. 2014), *https://www.sciencedirect.com/science/article/abs/pii/S0927537114001328.*

[79] *See, e.g.,* Holly Straut-Eppsteiner, Cong. Research Serv., R43366, ''U.S. Naturalization Policy'' (Apr. 15, 2024), *https://www.congress.gov/crs-product/R43366?s=1&r=77* (Outcomes for the United States).

[80] *See, e.g.,* Sarah Donovan et al., Cong. Research Serv., R47164, ''U.S. Employment-Based Immigration Policy'' (Nov. 19, 2024), *https://www.congress.gov/crs-product/R47164?s=1&r=48* (''Several studies identify positive contributions of foreign-born workers—particularly highly skilled immigrants—to the U.S. economy.''); Julia Gelatt, ''Explainer: Immigrants and the U.S. Economy,'' Migration Policy Institute (Oct. 2024), *https://www.migrationpolicy.org/content/explainer-immigrants-and-us-economy.*

[81] *Compare* USCIS, DHS, ''Immigration Examinations Fee Account, Fee Review Supporting Documentation with Addendum'' (Nov. 2023), *https://www.regulations.gov/document/USCIS-2021-0010-8176, with* USCIS, Form G–1055, ''Fee Schedule,'' *https://www.uscis.gov/g-1055* (Oct. 28, 2025 ed.).

[82] *See* Comment Submitted by Cato Institute (Apr. 17, 2023), *https://www.regulations.gov/comment/USCIS-2021-0010-7325.*

[83] Available for review and comment in the rulemaking docket at *https://www.regulations.gov.*

[84] *See* 72 FR 4888, 4908 (Feb. 1, 2007) (Table 12); Manuel Pastor et al., ''Nurturing Naturalization: Could Lowering the Fee Help?,'' National Partnership for New Americans (Feb. 2013), *https://dornsife.usc.edu/eri/wp-content/uploads/sites/41/2023/01/2013_Nurturing_Naturalization_CSII.pdf* (hereinafter, Pastor, ''Nurturing Naturalization'') (''This all suggests that there was a 'sticker shock' effect in which demand tried to race ahead of the planned price increase, then fell.'').

[85] *See* Federal Reserve History, ''The Great Recession'' (Nov. 22, 2013), *https://www.federalreservehistory.org/essays/great-recession-of-200709.*

[86] *See* Section III.E. for a discussion of the ability-to-pay principle.

[87] *Cf.* INA sec. 334, 8 U.S.C. 1445 (''[T]he application for naturalization may be filed up to 3 months before the date the applicant would first otherwise meet such continuous residence requirement.'').

authorization before applying for naturalization, these naturalization applicants should have more financial stability, on average, than other categories of aliens, most of whom have not lived in the United States or possessed unrestricted employment authorization for as long.[88] Naturalization applicants should generally possess as much or greater ability to pay than the applicants and petitioners who submit other benefit requests, and therefore, lower naturalization fees represent a departure from the ability-to-pay principle (*i.e.* those who are more capable of bearing the burden of fees should pay more for the service than those with less ability to pay).

DHS agrees that naturalization provides a matchless benefit to aliens but does not believe that this justifies underpriced naturalization fees that fail to recover the cost of adjudicating such a valuable benefit. DHS believes that the unique privilege of becoming a U.S. citizen must be safeguarded through proper screening and vetting, *see* Section III.C., which necessarily increases the overall cost of naturalization. For these reasons, DHS is proposing to adjust the Form N–400 and Form N–336 fees to levels consistent with the cost of processing both forms. *See* proposed 8 CFR 106.2(b)(2) and (3).

B. Remove Form N–400 Reduced Fee

In addition to raising the fee for Form N–400, DHS proposes to remove the reduced fee option for those naturalization applicants with household incomes not more than 400 percent of the FPG, which is currently codified at 8 CFR 106.2(b)(3)(ii). *See* proposed 8 CFR 106.2(b)(3). Currently, qualifying aliens applying for naturalization applicants pay a reduced fee of $380.

In support of the proposed change, DHS reasserts the fee calculation and rationale given for setting the fee for Form N–400 at a level that achieves full cost recovery. *See* Section IV.A earlier in this preamble. Specifically, eliminating the reduced fee for Form N–400 would:

- Align the fee for Form N–400 with the cost of adjudicating the form;
- Ensure that USCIS has sufficient revenue to cover the cost of Form N–400 as costs of properly screening and vetting and adjudicating such applications increase; and
- Align with the beneficiary-pays principle and Congressional intent of section 344 of the INA, 8 U.S.C. 1455, and 31 U.S.C. 9701.

For the same reasons discussed earlier in this preamble regarding the existing Form N–400 and Form N–336 fees, DHS believes there is insufficient justification for the Form N–400 reduced fee. While naturalization is a unique benefit, so are other benefit categories and the potential benefits to and from newly naturalized citizens do not justify burdening other benefit requestors with higher fees to subsidize the reduced fee Form N–400.[89]

Furthermore, DHS notes that the reduced fee for Form N–400 is a stark anomaly in the USCIS Fee Schedule, which would require compelling justification to maintain. While DHS does set prices for some other USCIS benefits below cost and provides fee waivers for other forms, *see* 8 CFR 106.3(a), it does not provide a reduced fee for any other USCIS benefit when the requestor's household income falls within a specific income range. *See* 8 CFR 106.2. Maintaining this unique privilege for Form N–400 results in cost reallocations to other benefits. Additionally, the current income ceiling for the reduced fee for Form N–400 (at or below 400 percent of the FPG) is extraordinarily high. Table IV.2 illustrates that difference between the income ceiling for the reduced fee and median household income in the United States.

Table IV.2: Form N-400 Reduced Fee Ceiling (400% of FPG) vs. U.S. Median Household

Household Size	400% of FPG*			U.S. Median Household Income†
	Lower 48 States	Alaska	Hawaii	
1	$62,600	$78,200	$71,960	$42,124
2	$84,600	$105,720	$97,280	$90,465
3	$106,600	$133,240	$122,600	$107,126
4	$128,600	$160,760	$147,920	$124,990
5	$150,600	$188,280	$173,240	$119,003
6	$172,600	$215,800	$198,560	$118,348
7+	$194,600	$243,320	$223,880	$126,072

* *See* USCIS, DHS, "Poverty Guidelines," https://www.uscis.gov/forms/filing-fees/poverty-guidelines (last updated Jan. 21, 2025).

† U.S. Census Bureau, "Median Household Income in the Past 12 Months (in 2024 Inflation-Adjusted Dollars) by Household Size," https://data.census.gov (data queried Sept. 23, 2025).

[88] *See, e.g.,* Josefina F. Morales, ''Financial Security and Immigrants' Legal Status: An Analysis of Net Worth in the United States,'' Retirement & Disability Research Center (2019), Table 2, *https://rdrc.wisc.edu/publications/working-paper/jsit19-04* (comparing wealth indicators of those in ''Precarious/Undocumented'' status versus those in LPR status); *see also* Mohamad Moslimani, ''Key facts about the wealth of immigrant households during the COVID–19 pandemic,'' Pew Research Center (Dec. 4, 2023), *https://www.pewresearch.org/short-reads/2023/12/04/key-facts-about-the-wealth-of-immigrant-households-during-the-covid-19-pandemic/* (Finding 3: ''The longer an immigrant has been in the U.S., the more wealth their household typically has.'').

[89] Although DHS stated in its 2024 Fee Rule final rule that the broader eligibility requirements for Form N–400 would not require further fee increases to other forms to offset the costs, 89 FR 6194, 6236, this was achieved through revisions to the USCIS budget and transferring costs to premium processing revenue. *Id.* at 6206–6208. Had DHS left the income ceiling for the reduced fee Form N–400 at its prior level of 200 percent of the FPGs, this would have allowed DHS to further limit the fee increases to other forms. *See id.* at 6198–6204 (Table 1).

As seen in Table IV.2, aliens who qualify for a reduced Form N–400 fee may have household income above (and in some cases, well above) U.S. median household income. For example, based on the 2025 FPGs, an alien living in the lower 48 States in a four-person household would qualify for a reduced fee if his or her annual household income was at or below $128,600 per year. Aliens in the 200–400 percent FPG range should be less price sensitive than those in the pre-existing 150–200 percent range. If aliens at this income level choose not to apply for naturalization in the absence of a reduced fee, this may not reflect a difficulty in paying the filing fee, but a choice to not file for naturalization.

In addition, DHS notes that eliminating the reduced fee for Form N–400 would mitigate the proposed increase to the general fee for Form N–400. By eliminating the cost/revenue gap caused by the reduced fee, DHS reduces the cost reallocations to the general Form N–400 fee that would be proposed. Also, ending the reduced fee would simplify the fee structure for Form N–400, and thereby simplify intake procedures for USCIS. Furthermore, the general Form N–400 fee, and the Form N–400 reduced fee were previously held below cost, which resulted in cost reallocations to other USCIS forms in prior fee rules.[90] So, eliminating the reduced fee and increasing the general Form N–400 fee could potentially enable DHS to limit increases to other USCIS forms in subsequent fee rules. Moreover, as discussed in Section IV.C, the reduced fee for Form N–400 incentivizes ineligible aliens to apply for naturalization, which unnecessarily consumes USCIS resources and forces eligible aliens to wait longer to naturalize.

Reduced fee Form N–400s constitute a small portion of total Form N–400 filings, as discussed in Section III.H.2. Prior to the effective date of the income ceiling increase (from 200 percent to 400 percent), reduced fee Form N–400s were a mere 0.3 percent of total non-military Form N–400 receipts. Even after the drastic increase in the income ceiling, reduced fee Form N–400s only make up 3.2 percent of total non-military Form N–400 receipts. So, while eliminating the reduced fee for Form N–400 might cause certain aliens to delay applying for naturalization, DHS does not believe that this proposed change would affect the vast majority of aliens who wish to pursue naturalization.

C. End Fee Waiver Eligibility for Form N–400 and Form N–336

DHS proposes to end fee waiver eligibility for Form N–400 and Form N–336, which is currently codified at 8 CFR 106.3(a)(3)(i)(H) through (I). *See* proposed 8 CFR 106.3(a)(3)(i).[91] As previously stated, DHS's legal authorities related to the setting of naturalization fees, including section 286(m) of the INA, 8 U.S.C. 1356(m), authorize USCIS to waive the fees for certain benefit request, but do not require it to do so. Although the TVPRA requires USCIS to allow aliens filing certain benefit requests to request fee waivers, this requirement only extends ''through final adjudication of the adjustment of status.'' *See* INA sec. 245(l)(7), 8 U.S.C. 1255(l)(7). Thus, the TVPRA's fee waiver requirements do not extend to Form N–400 or Form N–336.

DHS now proposes to eliminate fee waivers for Form N–400 and Form N–336 in order to:

- Mitigate the proposed fee increases to Form N–400 and Form N–336 by increasing the percentage of fee-paying filers;
- Improve USCIS processing efficiency for Form N–400 and Form N–336 by simplifying intake procedures and reducing adverse incentives for ineligible aliens to file; and
- Align with the beneficiary-pays principle and be consistent with section 344 of the INA, 8 U.S.C. 1455, as well as 31 U.S.C. 9701.

First, as explained with regard to the reduced fee for Form N–400 in Section IV.B, eliminating fee waivers for Form N–400 and Form N–336 would mitigate the proposed increases to the general fees for both forms. Because DHS seeks to ensure that the fees for Form N–400 and Form N–336 are self-sustaining and recover the full cost of their own adjudication, the costs of maintaining these fee waiver requests would be covered through increased fees for Form N–400 and Form N–336 applicants. DHS estimates that maintaining fee waivers for both these forms while proposing new fees would result in an extra $85–$120 per form, as displayed in Table IV.3, than it would if the proposed change to eliminate fee waivers is implemented.

[90] *See* 88 FR 402, 488 (''Other fee payers are required to bear the cost of the reduced fee[.]'').

[91] DHS does not propose to modify 8 CFR 106.3(c), which authorizes the Director of USCIS to waive or exempt fees that are not otherwise waivable or exempt under the fee schedule regulation at 8 CFR part 106, and does not propose to modify the availability of fee waivers for any other forms as part of this rulemaking.

Table IV.3: Proposed Fees for Form N-400 and Form N-336, with and without the Availability of Fee Waivers

	Proposed Fees with Fee Waivers Available		Proposed Fees without Fee Waivers Available	
	Paper Filing	Online Filing	Paper Filing	Online Filing
Form N-400 Application for Naturalization	$1,560	$1,510	$1,475	$1,425
Form N-336 Request for a Hearing on a Decision in Naturalization Proceedings Under Section 336	$1,450	$1,400	$1,330	$1,280

Source: USCIS analysis. The fees in columns 2 and 3 were calculated by determining the ABC model outputs for Form N-400 and Form N-336 for the FY 2026/27 IEFA fee review, applying a new condition that fee waivers would continue to exist both for forms, which would maintain the same fee-paying frequency at the time of analysis.

While an additional fee increase of $85–$120 may not be significant to certain households, USCIS recognizes that this may impose further financial burden on other households who are subject to the proposed fees. To limit the proposed fee increases, DHS has proposed to end the availability for fee waivers for these forms.

Second, DHS now believes that eliminating fee waivers for Form N–400 and Form N–336 would significantly improve USCIS processing of Form N–400 and Form N–336. As with the reduced fee for Form N–400, ending fee waivers for Form N–400 and Form N–336 would simplify intake procedures for USCIS, and allow USCIS to substantially reduce the resources spent on adjudicating fee waiver requests. Furthermore, DHS now believes that fee waiver eligibility for Form N–400 and Form N–336 (like the Form N–400 reduced fee) creates adverse incentives for aliens to apply for naturalization. In general, DHS believes that free filing or inexpensive fees may encourage aliens who know or suspect that they are ineligible for naturalization to apply anyway on the off chance that they may be approved.[92] As shown in Table IV.4 and Table IV.5, this incentive appears to have a notable effect on the filing of Form N–400 and Form N–336. This may be because a negative decision on an N-form does not typically result in enforcement action against the alien, who is typically an LPR, and because the ability of certain aliens to pass the English and civics test can depend on their ''luck of the draw'' of test questions.[93]

Table IV.4: Form N-400 Cases Decided (Approval or Denial), FY 2020-FY 2024

	Total Approvals		Total Denials		INA 312* Denials	
Fee Waiver Granted	581,385	83%†	119,948	17%	84,488	12%
Reduced Fee Granted	13,552	90%	1,432	10%	956	6%
No Fee Waiver or Reduced Fee	3,500,396	93%	262,147	7%	124,279	3%

USCIS Office of Performance and Quality, PAER0018994, Report 1. ELIS queried Oct. 2025.

* An INA 312 Denial means the failure to meet the educational requirements under section 312(a) of the Act, 8 U.S.C. 1423(a). INA 312 Denials are a subset of Total Denials.

† Percentages in this table are out of total approvals and denials within each row.

[92] *See* GAO, GAO–08–386SP, ''Federal User Fees: A Design Guide'' (May 2008), p. 10, *https://www.gao.gov/products/gao-08-386sp* (''[S]etting the fee too low induces overuse of agency resources and services.'').

[93] *See* 90 FR 45047, 45050 (Sept. 18, 2025) (For its 2025 Naturalization Civics test, USCIS administers 20 questions out of a bank of 128 questions).

Table IV.5: Form N-336 Approvals and Denials, With and Without Fee Waivers, FY 2020-FY 2024

	Total Approvals		Total Denials	
Fee Waiver Granted	2,038	58%	1,503	42%
No Fee Waiver	14,565	65%	7,974	35%

USCIS Office of Performance and Quality. PAER0018994, Report 2. ELIS queried Oct. 2025.

Tables IV.3 and IV.4 reveal statistically significant differences in denial rates between Form N–400 and Form N–336 applicants who pay the full fee, receive a fee waiver, or receive a reduced fee (Form N–400 only).[94] In FYs 2020–2024, the Form N–400 approval rate was 93 percent for those with no reduced fee or fee waiver, but 90 percent for those with a reduced fee and only 83 percent for those who received a fee waiver. While the failure rate on the English/civics test (INA 312 denial) was 3 percent for those with no reduced fee or fee waiver, the INA 312 denial rate was 6 percent for applicants who received a reduced fee and 12 percent for applicants who received a fee waiver. This indicates that aliens who are unprepared for the English/civics exam but eligible for a fee waiver or reduced fee could be incentivized to apply for naturalization prematurely, rather than waiting to master the exam content. Table IV.5 reveals a similar effect for Form N–336: While the approval rate for most requests was 62 percent, the approval rate is only 52 percent for fee-waived requests. By removing the incentive to file Form N–400 prematurely, ending fee waivers could help reduce the inefficient use of USCIS resources on ineligible naturalization cases and improve USCIS processing of eligible Form N–400 cases.

Finally, DHS notes that eliminating fee waivers would be consistent with the beneficiary-pays principle and with section 344 of the INA, 8 U.S.C. 1455, as well as 31 U.S.C. 9701. As discussed further in Section IV.D., Impact of Proposed Changes, DHS acknowledges that elimination of fee waivers for Form N–400 and Form N–336 may prevent certain aliens from applying for naturalization in the short term, but notes that these aliens could apply for naturalization in the future. Eligibility for a fee waiver means that USCIS has determined that the alien currently lacks the ability to pay, *see* 8 CFR 106.3(a)(1), not that the alien is permanently unable to pay for Form N–400 and Form N–336.[95] For these reasons, DHS believes that the benefits of eliminating fee waivers (which could reduce fee increases for Form N–400 and Form N–336 applicants and improve processing for both forms) outweighs the potential burdens to certain aliens who may currently lack the ability to pay.

D. Impact of the Proposed Changes

DHS understands that some studies conclude that higher naturalization fees would prevent some LPRs from applying for naturalization, but does not believe that the level of impact is as great as these studies have attributed to fee increases.[96] Despite DHS's decision to maintain low fees for naturalization and broaden eligibility for the reduced fee Form N–400 in the 2024 Fee Rule, that rule's Regulatory Impact Analysis (RIA) found Form N–400 to be an inelastic good,[97] meaning that the quantity demanded does not change substantially in response to changes in price. In this proposed rule, DHS maintains the position that Form N–400, or the citizenship benefit that it confers, is an inelastic good. *See* Section V.7. Consistent with this conclusion, DHS notes that one study has acknowledged that increases and subsequent drops in Form N–400 receipts surrounding significant fee increases in 1999 (137-percent fee increase) and 2007 (80-percent increase) [98] partially reflect a front-running of the fee changes by naturalization applicants,[99] and that other factors likely contributed to the rises and declines in naturalization filings surrounding these fee increases.[100] Furthermore, DHS notes that one study found some substitution effect for fee waivers—meaning that some aliens who obtain fee waivers for Form N–400 are able and willing to pay the full naturalization fee anyway.[101] Therefore, studies, including those cited by courts in challenges to past fee rules, do not demonstrate that naturalization is an elastic good, or that the proposed fee changes would result in long-term declines in naturalization application rates.[102]

DHS also notes that approval of a fee waiver request represents a finding by USCIS that the alien is currently unable to pay the fee for Form N–400 or Form N–336, *see* 8 CFR 106.3(a)(1), not that the alien will permanently be unable to pay the fee.[103] An alien must only establish inability to pay by a preponderance of the evidence to obtain

[94] Based on a Z-test of proportion, the differences in denial rate between Form N–400 subgroups and Form N–336 subgroups are statistically significant at a 0.1 percent level.

[95] *See* USCIS, Form I–912, ''Instructions for Request for Waiver,'' p. 6, *https://www.uscis.gov/i-912* (July 22, 2025 ed.) (requiring that the means-tested benefit is currently being received); *id.* at 7 (requiring copy of ''most recent Federal tax return, if available'' or pay statements for the past month); USCIS, DHS, ''USCIS Policy Manual,'' Vol. 1, Part B, Ch. 4, Fee Waivers and Fee Exemptions, *https://www.uscis.gov/policy-manual/volume-1-part-b-chapter-4* (last updated Nov. 3, 2025) (''Extreme financial hardship occurs when a requestor requires substantially all of their current income and liquid assets to meet current ordinary and necessary living expenses.'').

[96] *See* Pastor, ''Nurturing Naturalization''; Hainmueller et al., ''A randomized controlled design reveals barriers to citizenship for low-income immigrants,'' PNAS 115(5), 939–44 (Jan. 30, 2018), *https://www.pnas.org/doi/epdf/10.1073/pnas.1714254115* (hereinafter, Hainmueller, ''Barriers to Citizenship''); Gonzalez-Barrera et al., ''The Path Not Taken: Two-thirds of Legal Mexican Immigrants are not U.S. Citizens,'' Pew Research Center (Feb. 4, 2013), *https://www.pewresearch.org/race-and-ethnicity/2013/02/04/the-path-not-taken/* (hereinafter, Gonzalez-Barrera, ''The Path Not Taken''); Vasil Yasenov et al., ''Standardizing the fee-waiver application increased naturalization rates of low-income immigrants,'' PNAS 116(34), 16768–16772 (Aug. 6, 2019), *https://www.pnas.org/doi/10.1073/pnas.1905904116* (hereinafter, Yasenov, ''Standardizing the fee-waiver application'').

[97] *See* USCIS, DHS, ''Regulatory Impact Analysis'' (Jan. 2024), *https://www.regulations.gov/document/USCIS-2021-0010-8179.*

[98] *See* Pastor, ''Nurturing Naturalization,'' at 6.

[99] *Id.* at 9 (noting the '''sticker shock' effect in which demand tried to race ahead of the planned price increase, then fell'').

[100] *See id.* at 7. Notably, the latter decrease in filings took place during the Great Recession (December 2007–June 2009). *See* Federal Reserve History, ''The Great Recession'' (Nov. 22, 2013), *https://www.federalreservehistory.org/essays/great-recession-of-200709.*

[101] Yasenov, ''Standardizing the fee-waiver application,'' at 16769.

[102] *See ILRC; NWIRP.*

[103] *See* USCIS, Form I–912, ''Instructions for Request for Waiver,'' p. 6, *https://www.uscis.gov/i-912* (July 22, 2025 ed.) (requiring that the means-tested benefit is currently being received); *id.* at 7 (requiring copy of ''most recent Federal tax return, if available'' or pay statements for the past month); USCIS, DHS, ''USCIS Policy Manual,'' Vol. 1, Part B, Ch. 4, Fee Waivers and Fee Exemptions, *https://www.uscis.gov/policy-manual/volume-1-part-b-chapter-4* (last updated Nov. 3, 2025) (''Extreme financial hardship occurs when a requestor requires substantially all of their current income and liquid assets to meet current ordinary and necessary living expenses.'').

a fee waiver.[104] While new fee waiver polices for all USCIS requests are not being proposed as part of this rulemaking, the current fee waiver eligibility criteria and policies allow fee waivers without requiring the applicant (depending on the fee waiver eligibility criteria) to account for all their financial resources, such as personal savings and other forms of wealth. Therefore, an alien who would have been approved for a fee waiver may still be currently able to pay the filing fee.[105]

Furthermore, even if naturalization were a more elastic good, DHS does not believe that a possible decrease in naturalization rates by low-income aliens should determine the appropriate fees for Form N–400 and Form N–336. Price elasticity (the impact that changes in price have on the amount demanded) is not a strong justification for DHS to maintain lower fees and fee waivers.[106] As noted in one study cited by a court, the demand for naturalization may be more elastic than that for other immigration benefits because ''[t]hose who file the other forms do so out of necessity.'' [107] In other words, aliens are more willing to pay higher fees for benefits that they need, but may choose not to pay the fee for naturalization because they have the reasonable option of continuing to live in the United States as an LPR instead.[108] The study's authors reach the conclusion that, therefore, naturalization fees should be kept low (possibly subsidized by other immigration benefits), but it is possible to reach the opposite conclusion. As discussed in Section IV.A earlier in this preamble, DHS believes that it makes less sense to provide below-cost naturalization fees for aliens who possess reasonable alternatives to naturalization (such as choosing to remain an LPR for additional years), than for aliens who must pay a fee to live and work in the United States. Aliens who possess other reasonable alternatives can choose to avoid or delay the potential hardship imposed by a high fee, whereas those without reasonable alternatives are forced to endure the hardship of a high fee. This rationale and result is more consistent with the fee waiver options required by the TVPRA, which requires USCIS to allow fee waivers for certain protection-based categories of immigration benefits, up to and including an application for adjustment of status but does not extend the requirement to naturalization applications. INA sec. 245(l)(7), 8 U.S.C. 1255(l)(7). Therefore, DHS now believes that for certain forms like Form N–400 and Form N–336, price elasticity would indicate that reduced fees and fee waivers are inappropriate.

Finally, as further discussed in Section V. (Statutory and Regulatory Requirements), DHS acknowledges that increasing fees would result in a higher financial burden and might cause certain aliens to delay applying for naturalization or forgo certain expenses to afford the fees. Additionally, in response to the 2019 Proposed Fee Rule, commenters also stated, that possible harms stemming from increased immigration and naturalization fees could include reduced wages, broken families, and increased vulnerability to domestic violence.[109] DHS has considered that increasing naturalization fees, while ending fee reductions and waivers, could possibly contribute to the financial stresses that a low-income alien and his or her family already experience on account of general costs of living. However, because USCIS receives most of its operating revenue from the fees that it charges for its services, lower fees and fee waivers for naturalization do not reduce these social problems overall. Instead, preferencing naturalization applications with lower fees merely *shifts* these problems onto other populations—who may be in a worse position to cope with them than naturalization applicants because they must pay the resulting higher fees or leave the United States. Because LPR status is generally a requirement for naturalization, aliens considering filing Form N–400 already may live and work in the United States indefinitely, and, therefore, should generally have more financial flexibility to delay applying for naturalization and save up for the fee.[110] On the other hand, aliens applying for other immigration benefits will, in general, tend to have a more immediate need to acquire their status so they can seek lawful employment and avoid unlawful status in the United States.

The choice to naturalize does not differ from the choices that most people face when tasked with prioritizing essential over non-essential expenses. DHS acknowledges that an alien who wishes to pursue naturalization might have to prioritize expenses related to naturalization over other expenses. Some might need to borrow, save, or use credit to pay the fees (for immigration benefits generally or naturalization). DHS also notes that it could be possible that some potential naturalization applicants might lack access to credit in the short term.

DHS also considered that the fee changes proposed in this rule might have some short-term impact on nonprofit legal service providers who serve low-income aliens. DHS does not expect this effect to be long-term based on its elasticity analysis. *See* Section IV.A.7 later in this preamble. DHS understands that certain legal service providers have client bases that qualify for fee waivers and reduced fees more frequently than most aliens. Just as some low-income aliens might have to delay filing for naturalization due to these proposed changes, nonprofit legal service providers might experience a temporary decrease in clients that they can assist in applying for naturalization. However, based on its elasticity analysis, DHS believes that these aliens would eventually be able to apply for naturalization, and therefore the proposed fee changes should not result in a long-term client shortage for nonprofit legal service providers.

U.S. citizenship is the most meaningful immigration benefit the United States can bestow on an alien. As explained earlier in this rulemaking, Congress has given DHS broad authority to set immigration fees, including the fees associated with the adjudication of

[104] USCIS, DHS, ''USCIS Policy Manual,'' Vol. 1, Part B, Ch. 4, Fee Waivers and Fee Exemptions, *https://www.uscis.gov/policy-manual/volume-1-part-b-chapter-4* (last updated Nov. 3, 2025).

[105] *See* Yasenov, ''Standardizing the fee-waiver application,'' at 16769 (finding a substitution effect for some fee waivers).

[106] Price elasticity is not a factor that Congress required DHS to consider when providing DHS with broad authority to set fees related to the adjudication of naturalization applications. *See* INA sec. 286(m), 344, 8 U.S.C. 1356(m), 1455, 31 U.S.C. 9701.

[107] Pastor, ''Nurturing Naturalization,'' at 5.

[108] *Id.* (''After all, those immigrants who have the option to become citizens and do not do so can still remain legal permanent residents and garner the base benefits of lawful residency, including the ability to work legally.'').

[109] *See* 85 FR 46788, 46881; *NWIRP,* 496 F. Supp. 3d at 76 (''Confronted with calls to 'account for the harm posed by increased naturalization fees such as reduced wages, broken families, and increased vulnerability to domestic violence,' . . . DHS did 'acknowledge that some individuals will need to save, borrow, or use a credit card in order to pay fees,' . . . but it failed to consider that burden in weighing the costs and benefits of the Rule and failed to consider the impact the Rule would have on those unable to borrow the necessary funds. Instead, without analysis or support, it merely 'disagree[d] that the fees will result in the negative effects' suggested by comments.'').

[110] DHS acknowledges that aliens must also pay a fee to renew their Form I–551, Permanent Resident Card, by filing Form I–90, Application to Replace Permanent Resident Card. *See* 8 CFR 106.2(a)(1). However, that fee ($465) is significantly lower than the proposed fees for Form N–400 and Form N–336, and Form I–551 typically must be renewed every 10 years, which gives most LPRs time to save up for the filing fee. *See* USCIS, DHS, ''USCIS Policy Manual,'' Volume 11, Travel and Identity Documents, Part B, Permanent Resident Cards, Chp. 1, Purpose and Background, *https://www.uscis.gov/policy-manual/volume-11-part-b-chapter-1* (last updated Feb. 3, 2026).

naturalization. Most importantly, Congress directed DHS to do so in a manner that covers the costs of the government service provided, which includes the costs of the adjudication of a naturalization application (including screening and vetting) to keep the United States safe. U.S. citizenship confers rights, privileges, and responsibilities that are vital to the security and safety of the United States. For the reasons articulated in Section IV of this preamble, DHS believes that any negative impacts of the proposed fees on aliens, their representatives, or the public at large are outweighed by the government's interest in collecting the full fee in support of its efforts to thoroughly and efficiently adjudicate Form N–400s and Form N–336s.

E. Retain Fee Exemptions for Qualified Current and Former Armed Forces Service Members

DHS does not propose to change the current fee exemptions for Form N–400 and Form N–336 for applicants who apply under section 328 or 329 of the INA, 8 U.S.C. 1439, 1440. *See* 8 CFR 106.2(b)(2) and (3)(i). These fee exemptions are required by statute, so DHS cannot remove them through regulation. *See* INA sec. 328(b)(4), 8 U.S.C. 1439(b)(4); INA sec. 329(b)(4), 8 U.S.C. 1440(b)(4). In addition, the DOW reimburses USCIS for up to $7,500,000 of these fees, so USCIS already recovers some of their cost. 10 U.S.C. 1790.

F. Scope and Timing of Proposed Changes

DHS has decided to propose adjusting the fees for Form N–400 and Form N–336 in a separate rule rather than waiting to adjust those fees as part of a comprehensive change to USCIS' Fee Schedule. In the 2024 Fee Rule, DHS reallocated costs to other forms to make up for the cost/revenue gap that resulted from artificially maintaining lower fees for Form N–400 and Form N–336, the reduced fee Form N–400, and fee waivers for both forms. Were DHS to propose this rule as part of a comprehensive revision to the USCIS Fee Schedule, it would be possible to consider reductions to the fees for other immigration fees based on the adjustments to the fees for Form N–400 and Form N–336.[111] However, DHS has decided to propose fee changes for the Form N–400 and Form N–336 in a separate rule for multiple reasons. First, the primary purpose of a comprehensive fee rule is to adjust the fees based on the increased overall costs to USCIS using an ABC total cost recovery model; not to implement policy goals. The changes proposed in this rule, on the other hand, are necessary to align the fees for Form N–400 and Form N–336 with USCIS' recent policy initiatives related to naturalization, which are designed to ensure the integrity of the naturalization benefit. The need for a thorough explanation of the rational basis for these proposed fee changes as well as the prominence of the Form N–400 fee, fee waivers, and reduced fees in past fee rules and related litigation, make it prudent for DHS to propose these fee changes in a rule separate from a comprehensive USCIS fee schedule.

In furtherance and support of the policies outlined in E.O. 14159, E.O. 14161, and E.O. 14341, DHS and USCIS have already undertaken various changes:

- DHS proposed multiple revisions to Form N–400 to collect additional information to enhance identity verification, assessment of eligibility, vetting, and national security and public safety screening during adjudication of Form N–400. *See* 90 FR 11054 (Mar. 3, 2025); 90 FR 11324 (Mar. 5, 2025); 90 FR 22750 (May 29, 2025); 90 FR 42604 (Sept. 3, 2025); 90 FR 44693 (Sept. 16, 2025); 90 FR 47318 (Oct. 1, 2025).[112] DHS estimates that collecting, reviewing, and adjudicating Form N–400 based on the new information to be collected would increase the cost of adjudicating Form N–400 and require additional resources.
- USCIS announced that it will use a totality of the circumstances approach when assessing whether an alien meets the Good Moral Character (GMC) requirement for naturalization at section 316(a)(3) of the INA, 8 U.S.C. 1427(a)(3).[113] DHS anticipates that restoring this holistic approach to assessing GMC will increase interview and adjudication times.
- USCIS announced that it will resume personal investigations of aliens applying for naturalization in accordance with section 335(a) of the INA, 8 U.S.C. 1446(a).[114] Based on all the changes related to naturalization, USCIS expects that it will require additional time for investigations, screening and vetting, interviews, and case review, and that it may also need to hire additional employees.
- USCIS implemented a new Naturalization Civics Test (the 2025 Naturalization Civics Test), first introduced in 2020, which includes a larger bank of possible test questions for each individual test, and requires aliens to correctly answer twelve out of twenty civics questions, instead of the previous six out of ten questions.[115] DHS expects that administering a longer civics test will increase the duration of naturalization interviews.

USCIS is still in the early stages of implementing changes to its policies regarding naturalization, so DHS is unable to accurately estimate the resource expenditure impacts of USCIS' initiatives on processing naturalization applications. Additionally, Form N–400 may undergo more changes based on public comments received, and additional needed changes based on priorities. Therefore, DHS did not consider these policy changes when deriving the ABC model output costs for the Form N–400 and Form N–336 fees proposed in this rule.[116]

While these recent initiatives relating to naturalization do not directly impact the fees in this proposed rule, they are reasons why DHS is taking these steps to increase the fees associated with the Form N–400 and the Form N–336 at this time, in advance of a comprehensive fee rule. DHS welcomes public comments on the new initiatives and how they may impact costs and fees. The new USCIS initiatives are likely to increase the cost of processing Form N–400 and Form N–336, which may require DHS to adjust the fees by a different amount in the final rule than what was proposed, or raise USCIS fees again in the future.[117] Furthermore, DHS expects that these initiatives may cause the costs for processing Form N–400 and Form

[111] DHS has recently proposed reducing the fees for several forms related to fifth preference employment-based (EB–5) visas. *See* 90 FR 48516 (Oct. 23, 2025).

[112] Because Form N–336 is merely a request to reexamine an underlying Form N–400 denial, DHS did not propose to revise Form N–336 in this manner.

[113] *See* USCIS, DHS, ''Restoring a Rigorous, Holistic, and Comprehensive Good Moral Character Evaluation Standard for Aliens Applying for Naturalization'' (Aug. 15, 2025), *https://www.uscis.gov/sites/default/files/document/policy-alerts/08.15.2025-Restoring_a_Good_Moral_Character_Evaluation_Standard_for_Aliens_Applying_for_Naturalization-Policy_Memorandum_FINAL.pdf.*

[114] *See* USCIS, DHS, ''Resumption of Personal Investigations of Aliens Applying for Naturalization (INA 335(a))'' (Aug. 22, 2025), *https://www.uscis.gov/sites/default/files/document/policy-manual/PM-602-0189_INA335.pdf; see also* 8 CFR 335.1.

[115] *See* 90 FR 45047 (Sept. 18, 2025); USCIS, DHS, ''Revising Guidance on Naturalization Civics Educational Requirements,'' (Oct. 20, 2025), *https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20251020-CivicsTest.pdf.*

[116] If this NPRM is finalized, that final rule will consider any additional costs that are known before it is published if the additional costs represent a logical outgrowth from this rule. Any additional costs DHS considers would be clearly identified and discussed in the preamble of a final rule.

[117] If a further fee increase is needed, DHS will announce such a fee increase in a future regulatory action in compliance with the Administrative Procedure Act, 5 U.S.C. 551–557.

N–336 to rise at faster rates than the costs of processing other forms. DHS believes that increasing the fees for Form N–400 and Form N–336 now based on current cost data would (a) reduce the risk of needing to fund the costs of new initiatives by reducing the carryover balance, and (b) result in a more gradual increase in the fees for both forms. In its next comprehensive fee rule, DHS may assess the impact of its new naturalization fees on overall cost recovery, and the continuing need for cost reallocations assigned to other USCIS benefits.

G. Related Rulemakings

DHS is engaging in multiple rulemaking actions that are in various stages of development.[118] DHS has considered and analyzed each of these rules for peripheral, overlapping, and interrelated effects on this rule and has incorporated their effects, if any, into the supporting documentation, fee calculations, policies, and regulatory text for this proposed rule. DHS has also, to the extent possible, considered the effects, if any, of possible policy changes of which USCIS is aware. DHS, however, does not and cannot assert that it knows and has considered every policy change that is planned and that may occur at all levels and agencies of the U.S. government that may directly or indirectly affect this rule. DHS believes that it has examined and considered all relevant aspects of the problems that this rulemaking proposes to solve and articulated satisfactory analysis and reasoned explanations for each proposed change. DHS, however, invites the public to submit comments during the 60-day comment period regarding anticipated interaction with related rules and policy changes.

H. Severability

It is DHS's intention that the proposed rule's various provisions, once finalized, be considered severable from one another to the greatest extent possible. For instance, if a court of competent jurisdiction were to prohibit USCIS from collecting any new fee for Form N–400 for any reason or ending the practice of providing fee waivers or reduced fee options for a particular population, DHS would intend for the court to leave the remainder of the rule in place with respect to the other aspects, circumstances, and covered persons. The same is true for the proposed new fee for Form N–336 and the proposal to end fee waivers for this form. DHS believes that the measures proposed in this rule, once finalized, are structured so that a stay, injunction, or vacatur of any of the fees or measures proposed could be narrowly tailored to remedy the specific harm that a court may determine exists at that time. Thus, USCIS would be able to continue implementing the remaining provisions of the rule until DHS could either engage in new rulemaking to address the fees or otherwise correct the deficiencies that resulted in the court's order. DHS prefers a narrowly tailored measure over invalidation of the entire rule, which generally results in great disruption and deterioration of USCIS operations. DHS's overarching goal is to align fees for Form N–400 and Form N–336 with the relative adjudication and administrative burden they place on USCIS.

V. Statutory and Regulatory Requirements

A. Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 14192 (Unleashing Prosperity Through Deregulation)

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. E.O. 14192 directs agencies to significantly reduce the private expenditures required to comply with Federal regulations and provides that ''any new incremental costs associated with the new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.''

OMB has designated this rule a ''significant regulatory action'' that is economically significant, as defined under section 3(f)(1) of E.O. 12866, because its annual effects on the economy exceed $100 million in any year of the analysis. Accordingly, the proposed rule has been reviewed by OMB.

Additionally, this proposed rule is not an E.O. 14192 regulatory action because it is being issued with respect to an immigration-related function of the United States. The rule's primary direct purpose is to implement or interpret the immigration laws of the United States (as described in INA sec. 101(a)(17), 8 U.S.C. 1101(a)(17)) or any other function performed by the U.S. Federal Government with respect to aliens. *See* OMB Memorandum M–25–20, ''Guidance Implementing Section 3 of Executive Order 14192, titled 'Unleashing Prosperity Through Deregulation''' (Mar. 26, 2025).

1. Summary

Fee increases for Form N–400 and Form N–336 would result in annualized transfer payments from current full fee-paying alien applicants to USCIS of approximately $430,049,505 (primary estimate, discounted at 3 and 7 percent). The total 10-year transfer payments from current full fee-paying alien applicants to USCIS would be $3,668,409,508 (primary estimate) at a 3 percent discount rate and $3,020,487,765 (primary estimate) at a 7 percent discount rate.

The fee waiver amendments for Form N–400 and Form N–336 would result in annualized transfer payments from current fee-waiver eligible aliens to USCIS of approximately $196,353,305 (primary estimate, discounted at 3 and 7 percent). The total 10-year transfer payments from current fee-waiver eligible aliens to USCIS would be $1,674,933,519 (primary estimate) at a 3 percent discount rate and $1,379,103,448 (primary estimate) at a 7 percent discount rate.

The reduced fee amendment for Form N–400 would result in annualized transfer payments from current reduced fee eligible aliens to USCIS of approximately $16,730,450 (primary estimate, discounted at 3 and 7 percent). The total 10-year transfer payments from current reduced fee eligible aliens to USCIS would be $142,714,132 (primary estimate) at a 3 percent discount rate and $117,507,680 (primary estimate) at a 7 percent discount rate.

The fee waiver and reduced fee amendments for Form N–400 and Form N–336 would result in opportunity cost savings for aliens who are no longer eligible for the waived or reduced fees and do not need to fill out Form I–912 or Part 10 of Form N–400 of approximately $3,514,895 (primary estimate, discounted at 3 and 7 percent). The total 10-year cost savings for aliens would be $29,982,767 (primary estimate) at a 3-percent discount rate and $24,687,152 (primary estimate) at a 7 percent discount rate.

This proposed rule would set the fees for Form N–400 and Form N–336 to recover the cost of adjudicating and processing both forms, including performing screening and vetting checks which USCIS is continuously enhancing, allowing USCIS to improve the integrity of the U.S. naturalization system and ensure full compliance with

[118] *See* Office of Information and Regulatory Affairs, ''Spring 2025 Unified Agenda of Regulatory and Deregulatory Actions,'' *https://www.reginfo.gov/public/do/eAgendaMain* (last visited Feb. 2, 2026).

current naturalization laws and the President's Executive Orders. DHS anticipates this proposed rule would produce a qualitative benefit for USCIS by substantially reducing resources that would have been expended on adjudicating and processing fee waiver and reduced fee requests. Qualitatively, the proposed rule would also reduce administrative costs to adjudicate Forms I–912, N–400, and N–336 that are submitted by aliens ineligible for naturalization or a fee waiver, and who may know they are not eligible, but file the application anyway because it would potentially be free if USCIS ultimately approved the fee waiver.[119] Additionally, it reduces the administrative costs of adjudicating reduced fee requests that are submitted by aliens who are ineligible for naturalization or a reduced fee, and may know they are not eligible, but file the request anyway. On the other hand, increasing general fees and eliminating fee waivers and reduced fees might cause certain aliens who are eligible to become naturalized U.S. citizens to delay applying and paying the increased fee. This could result in additional LPR requests in the future for renewal of their Permanent Resident Cards (''Green'' Card) which would be an added burden to applicants and USCIS.

Table V.1 shows the summary of impacts of the proposed regulatory changes and the associated estimated benefits, costs, cost savings, and transfers.

[119] Form I–912, or a fee waiver request, must be submitted together with Form N–400 or with Form N–336. Form I–912 is adjudicated before the Form N–400 or Form N–336 is adjudicated. If the Form I–912 is approved, USCIS will issue a receipt notice for the Form N–400 or Form N–336 and proceed with adjudicating Form N–400 or Form N–336. If the Form I–912 is denied, the entire application package will be returned to the applicant. *See* USCIS, Form I–912, ''Instructions for Request for Fee Waiver,'' *https://www.uscis.gov/sites/default/files/document/forms/i-912instr.pdf* (July 22, 2025 ed.).

Table V.1: Summary of Impacts and Estimated Benefits, Costs, Cost Savings, and Transfers of the Proposed Rule

Provision	Proposed Regulatory Text	Description and Estimated Impact of Proposed Regulatory Change
8 CFR 106.2(b)(2)	Request for a Hearing on a Decision in Naturalization Proceedings Under Section 336, Form N-336. To request a hearing before an immigration officer on the denial of Form N-400, Application for Naturalization. $1,475. There is no fee for an applicant who has filed an Application for Naturalization under INA sec. 328 or 329, 8 U.S.C. 1439 or 1440, with respect to military service and whose application has been denied.	• Sets the general fee for Form N-336 at a level to recover the full cost of adjudication and naturalization services. **Quantified Transfers** • Fee increase would result in transfer payments from current full fee-paying alien applicants for Form N-336 to USCIS of $2,641,275 (primary estimate, annualized, 3- and 7-percent discount rates). **Qualitative Benefits** • The fee for Form N-336 would be sufficient to recover the currently known, full costs of adjudicating and processing including screening and vetting checks which USCIS is continuously enhancing. **Qualitative Costs** • May cause certain aliens to defer applying for naturalization. Could result in additional LPR requests in the future for renewal of their Permanent Resident Cards ("Green" Card) which would be an added burden to applicants and USCIS.
8 CFR 106.2(b)(3)	Application for Naturalization, Form N-400. To apply for U.S. citizenship. $1,330. No fee is charged for an applicant who meets the requirements of INA section 328 or 329 of the Act with respect to military service.	• Sets the general fee for Form N-400 at a level to recover the full cost of adjudication and naturalization services from those who file Form N-400. • Eliminates the reduced fee for Form N-400 aliens whose documented household income is less than 400 percent of the FPG. **Quantified Transfers** • Fee increase would result in transfer payments from current full fee-paying alien applicants for Form N-400 to USCIS of $427,408,230 (primary estimate, annualized, 3 and 7 percent discount rates). • Elimination of reduced fee would result in transfer payments from current reduced fee aliens for Form N-400 to USCIS of $16,730,450 (primary estimate, annualized, 3 and 7 percent discount rates). **Quantified Cost Savings**

		• Opportunity cost savings for aliens who would no longer complete the reduced fee portion of Form N-400 or burden to obtain documents for reduced fees eligibility for Form N-400 of $113,591 (primary estimate, annualized, 3 and 7 percent discount rates). **Qualitative Benefits** • The fee for Form N-400 would be sufficient to recover the currently known, full costs of adjudicating and processing including screening and vetting checks which USCIS is continuously enhancing. • Reduction in USCIS resources that would have been expended on adjudicating and processing reduced fee requests. • Reduces administrative costs to adjudicate reduced fee requests that are submitted by aliens who are ineligible for naturalization or a reduced fee, and may know they are not eligible, but file the request anyway. • USCIS would more thoroughly adjudicate applications for naturalization, which includes screening and vetting checks which USCIS is continuously enhancing. **Qualitative Costs** • May cause certain aliens to defer applying for naturalization. Could result in additional LPR requests in the future for renewal of their Permanent Resident Cards ("Green" Card) which would be an added burden to applicants and USCIS.
8 CFR 106.3(a)(3)(i)	(i) The following fees for the following forms may be waived without condition: (A) Application to Replace Permanent Resident Card (Form I-90); (B) Application for Relief Under Former Section 212(c) of the Immigration and Nationality Act (Form I-191); (C) Petition to Remove the Conditions of Residence (Form I-751); (D) Application for Family Unity Benefits (Form I-817); (E) Application for Temporary Protected Status (Form I-821); (F) Application for Suspension of Deportation or Special Rule Cancellation of Removal (Form I-	• Eliminates fee waivers for Form N-400 and Form N-336 for non-military applicants. **Quantified Transfers** • Transfer payments from those who would have received a fee-waiver for Form N-400 to USCIS of $195,378,330 (primary estimate, annualized, 3 and 7 percent discount rates). • Transfer payments from those who would have received a fee-waiver for Form N-336 to USCIS of $974,975 (primary estimate, annualized, 3 and 7 percent discount rates).

	881) (under section 203 of Pub. L. 105-110); (G) Application to File Declaration of Intention (Form N-300); (H) Application to Preserve Residence for Naturalization Purposes (Form N-470); (I) Application for Replacement Naturalization/Citizenship Document (Form N-565); (J) Application for Certificate of Citizenship (Form N-600); and (K) Application for Citizenship and Issuance of Certificate under section 322 of the Act (Form N-600K).	**Quantified Cost Savings** • Opportunity cost savings for aliens no longer eligible for fee waivers for Form N-400 of $3,386,068 (primary estimate, annualized, 3 and 7 percent discount rates). • Opportunity cost savings for aliens no longer eligible for fee waivers for Form N-336 of $15,236 (primary estimate, annualized, 3 and 7 percent discount rates). **Qualitative Benefits** • Reduction in USCIS resources that would have been expended on adjudicating and processing fee waiver fee requests. • Reduces administrative costs to adjudicate Forms I-912, N-400, and N-336 that are submitted by aliens who are ineligible for naturalization or a fee waiver, and may know they are not eligible, but file the application anyway. **Qualitative Costs** • May cause certain aliens to defer applying for naturalization. Could result in additional LPR requests in the future for renewal of their Permanent Resident Cards ("Green" Card) which would be an added burden to applicants and USCIS.

Table V.2 presents the prepared accounting statement, as required by OMB Circular A–4, showing the costs associated with this proposed regulation.[120] Note that under costs and transfers, the primary estimates provided in the accounting statement are calculated from the median between the estimated populations before and after the 2024 Fee Rule went into effect on April 1, 2024. *See* 89 FR 6194. The median accounts for the variability between the populations before and after the 2024 Fee Rule went into effect, as there were noticeable changes in filing behavior between the two periods even though population data are currently limited for the time period after the 2024 Fee Rule went into effect.

[120] OMB, ''Circular A–4'' (Sept. 17, 2003).

Table V.2: OMB A-4 Accounting Statement ($millions, 2024)
Period of analysis: 10 years

Category	Primary Estimate		Minimum Estimate	Maximum Estimate	Source Citation (regulatory impact analysis (RIA), regulatory flexibility analysis (RFA), preamble, etc.)
BENEFITS					
Monetized Benefits	N/A		N/A	N/A	N/A
Annualized quantified, but un-monetized, benefits	N/A		N/A	N/A	N/A
Unquantified Benefits	• Allows USCIS to recover the cost of adjudicating and processing Form N-400 and Form N-336 from those who file the forms, which includes performing screening and vetting checks which USCIS is continuously enhancing, allowing USCIS to improve the integrity of the U.S. naturalization system and ensure full compliance with current naturalization laws. • Allows USCIS resources that would have been expended on adjudicating and processing fee waiver and reduced fee requests to instead be devoted to other tasks or product lines. • Reduces administrative costs to adjudicate Forms I-912, N-400, and N-336 that are submitted by aliens who are ineligible for naturalization, a fee waiver or a reduced fee, and may know they are not eligible, but file the application anyway.				RIA
COSTS*					
Annualized monetized costs (discount rate in parenthesis)	(7%)	-$3.5	-$3.2	-$3.9	RIA
	(3%)	-$3.5	-$3.2	-$3.9	RIA
Annualized quantified, but un-monetized, costs	N/A		N/A	N/A	N/A
Qualitative (unquantified) costs	May cause certain aliens to defer applying for naturalization. Could result in additional LPR requests in the future for renewal of their Permanent Resident Cards ("Green" Card) which would be an added burden to applicants and USCIS.				RIA
TRANSFERS					
Annualized monetized transfers: from current full fee-paying alien applicants to USCIS	(7%)	$430.0	$400.4	$459.7	RIA
	(3%)	$430.0	$400.4	$459.7	
Annualized monetized transfers: from current fee-	(7%)	$196.4	$182.5	$210.2	RIA

waiver aliens to USCIS	(3%)	$196.4	$182.5	$210.2	
Annualized monetized transfers: from current reduced fee aliens to USCIS	(7%)	$16.7	$2.7	$30.7	RIA
	(3%)	$16.7	$2.7	$30.7	
From whom to whom?	From current full fee-paying alien applicants to USCIS; from current fee-waiver aliens to USCIS; from current reduced-fee aliens to USCIS.				RIA
Annualized monetized transfers: "off-budget"	(7%)	N/A	N/A	N/A	N/A
	(3%)	N/A	N/A	N/A	
From whom to whom?	N/A				N/A
Category	***Effects***				***Source Citation (RIA, preamble, etc.)***
Effects on State, local, and/or Tribal governments	None.				RIA
Effects on small businesses	This proposed rule would directly regulate and impact aliens requesting naturalization benefits, and individuals are not considered a small entity under the Regulatory Flexibility Act.				RFA
Effects on wages	None.				RIA
Effects on growth	None.				RIA
* The costs presented in this table are opportunity cost savings.					

2. Background and Purpose

USCIS administers the nation's lawful immigration system, through which hundreds of thousands of individuals file applications each year to become naturalized citizens of the United States. USCIS is funded, in part, by naturalization benefit request fees charged to applicants. Fees collected from naturalization benefit requests are deposited into the IEFA and are adjusted periodically to ensure that they are adequate to cover USCIS' costs associated with processing and adjudicating applications. Currently, the costs of processing and adjudicating Forms N–400 and N–336 are not fully covered by their associated fees; therefore, other form fee revenues are reallocated to make up for the cost/revenue gap. Form N–400 and Form N–336 fees are codified in 8 CFR part 106, which also provides eligibility for fee waivers and a reduced fee for Form N–400 to any alien who has a family income at or under 400 percent of the FPG.

So that the fees for Form N–400 and Form N–336 fully recover the cost of processing and adjudicating those benefit requests, this NPRM proposes to increase the fees listed at 8 CFR 106.2(b) for Form N–400, Application and Naturalization, and Form N–336, Request for a Hearing on a Decision in Naturalization Proceedings Under Section 336. Secondly, this rule also proposes to amend 8 CFR 106.3(a) to end the availability of fee waivers for Form N–400 and Form N–336 and reduced fees for Form N–400. Lastly, this NPRM will not propose to eliminate the fee exemption for aliens who meet the requirements of INA sections 328 or 329 of the INA, 8 U.S.C. 1439, 1440, with respect to qualified current and former armed forces service members. Although USCIS does not charge a fee to military naturalization aliens, the DOW reimburses USCIS for costs related to such applications, up to $7.5 million annually or about 38 percent of these costs.[121]

[121] As discussed later, any costs that exceed the $7.5 million annual limit (10 U.S.C. 1790) would be paid for by other non-military Form N–400 alien applicants in the form of higher fees. In FY 2024, fees related to naturalization for aliens in the military cost around $20 million. Thus, about 38 percent of these funds are reimbursed by DOW ($7.5 million ÷ $20 million = 38 percent (rounded)).

The purpose of this proposed rule is to adjust the fees for Form N–400 and Form N–336, including eliminating fee waivers and reduced fees for these forms, so that their fees recover the full cost of their adjudication, according to the beneficiary-pays approach to fee setting.

3. Population

Population counts are used to estimate the economic impacts of the proposed provisions of this rule. This analysis presents populations from before and after the 2024 Fee Rule became effective on April 1, 2024. The 2024 Fee Rule promulgated changes in fees for Form N–400 and Form N–336, maintained the availability of fee waivers for Form N–400 and Form N–336, and expanded the reduced fee available for Form N–400 to any alien who has a family income at or under 400 percent of the FPG.

The time periods used in the population counts are FY 2019 through FY 2023 (prior to the 2024 Fee Rule) and April 2024 through March 2025 (after the 2024 Fee Rule). Full-year data for FY 2025 is currently not available at the time of this analysis, so one calendar

year of data is used. Breaking out and presenting the data into two time periods will fully account for impacted populations and provide a range of estimated economic impacts discussed in the following sections.

a. Form N–400

Table V.3 shows total receipts (paper and online) of Form N–400 for military and non-military aliens for FY 2019 through FY 2023 and April 2024 through March 2025.

Table V.3: Total Receipts of Form N-400, FY 2019 through FY 2023, April 2024 through March 2025

Year	Military			Non-Military			Online Total	Paper Total	Grand Total
	Online	Paper	Total	Online	Paper	Total			
FY 2019	18	4,202	4,220	297,216	536,058	833,274	297,234	540,260	837,494
FY 2020	982	5,617	6,599	475,127	515,819	990,946	476,109	521,436	997,545
FY 2021	5,907	4,984	10,891	378,668	388,800	767,468	384,575	393,784	778,359
FY 2022	7,841	3,772	11,613	401,406	368,580	769,986	409,247	372,352	781,599
FY 2023	8,977	6,051	15,028	450,717	369,190	819,907	459,694	375,241	834,935
5-Year Avg. FY 2019-FY 2023	**4,745**	**4,925**	**9,670**	**400,627**	**435,689**	**836,316**	**405,372**	**440,614**	**845,986**
Apr. 2024-Mar. 2025	**15,538**	**3,822**	**19,360**	**601,859**	**390,526**	**992,385**	**617,397**	**394,348**	**1,011,745**

Source: DHS, USCIS, Office of Performance and Quality (OPQ); ELIS and CLAIMS4 databases, queried Aug. 2025, PAER0018557 (for FY 2019 through FY 2023), PAER0018694 (for April 2024 through March 2025).
Note: The total columns add the online and paper columns.

Table V.4 shows the total paper receipts (Column A), total approved fee waivers (Column B), the total approved reduced fees (Column C), and the net total paper receipts (Column D) for non-military Form N–400 applicants for FY 2019 through FY 2023 and April 2024 through March 2025. The net total paper receipts will be used later in this analysis to estimate the economic impact of the fee increase for Form N–400 from estimated populations that did not have the fee waived or reduced.

Table V.4: Total Paper Receipts, Approved Fee Waivers, Approved Reduced Fees, and Net Total Paper Receipts for Non-Military Applicants for Form N-400, FY 2019 through FY 2023, April 2024 through March 2025

Year	Total Paper Receipts	Total Approved Fee Waivers	Total Approved Reduced Fees	Total Net Paper Receipts	Percent of Approved Fee Waivers to Total Paper Receipts	Percent of Approved Reduced Fees to Total Paper Receipts
	A	B	C	D = A – (B + C)	E = B ÷ A	F = C ÷ A
FY 2019	536,058	168,481	4,567	363,010	31%	1%
FY 2020	515,819	133,991	3,819	378,009	26%	1%
FY 2021	388,800	118,580	2,145	268,075	30%	1%
FY 2022	368,580	126,091	1,886	240,603	34%	1%
FY 2023	369,190	134,425	1,973	232,792	36%	1%
5-Year Avg. FY 2019-FY 2023	**435,689**	**136,314**	**2,878**	**296,497**	**31%**	**1%**
Apr. 2024-Mar. 2025	**390,526**	**157,488**	**32,344**	**200,694**	**40%**	**8%**

Source: Columns A and B: DHS, USCIS, OPQ; ELIS and CLAIMS4 databases, queried Aug. 2025, PAER0018557 (for FY 2019 through FY 2023), PAER0018694 (for April 2024 through March 2025); Column C: DHS, USCIS, OPQ; ELIS and CLAIMS4 databases, queried Aug. 2025, PAER0018672; Columns D, E, and F: USCIS analysis.

b. Form N–336

Table V.5 shows total receipts (paper and online) of Form N–336 for military and non-military aliens for FY 2019 through FY 2023 and April 2024 through March 2025.

Table V.5: Total Receipts of Form N-336, FY 2019 through FY 2023, April 2024 through March 2025									
Year	Military			Non-Military			Online Total	Paper Total	Grand Total
	Online	Paper	Total	Online	Paper	Total			
FY 2019	-	1	1	1,325	4,802	6,127	1,325	4,803	6,128
FY 2020	12	15	27	1,508	3,739	5,247	1,520	3,754	5,274
FY 2021	43	11	54	1,577	2,904	4,481	1,620	2,915	4,535
FY 2022	57	9	66	2,356	3,411	5,767	2,413	3,420	5,833
FY 2023	84	9	93	2,539	3,261	5,800	2,623	3,270	5,893
5-Year Avg. FY 2019-FY 2023	**49**	**9**	**58**	**1,861**	**3,623**	**5,484**	**1,910**	**3,632**	**5,542**
Apr. 2024-Mar. 2025	**59**	**4**	**63**	**2,206**	**1,698**	**3,904**	**2,265**	**1,702**	**3,967**
Source: DHS, USCIS, OPQ; ELIS and CLAIMS4 databases, queried Aug. 2025, PAER0018557 (for FY 2019 through FY 2023), PAER0018694 (for April 2024 through March 2025). Note: The total columns add the online and paper columns.									

Table V.6 shows the total paper receipts (Column A), total approved fee waivers (Column B), and the net total paper receipts (Column C) for non-military Form N–336 applicants for FY 2019 through FY 2023 and April 2024 through March 2025. The net total paper receipts will be used later in this analysis to estimate the economic impact of the fee increase for Form N–336 from estimated populations that did not have the fee waived.

Table V.6: Total Paper Receipts, Approved Fee Waivers and Net Total Paper Receipts for Non-Military Applicants for Form N-336, FY 2019 through FY 2023, April 2024 through March 2025				
Year	Total Paper Receipts A	Total Approved Fee Waivers B	Total Net Paper Receipts C = A - B	Percent of Approved Fee Waivers to Total Paper Receipts D = B ÷ A
FY 2019	4,802	1,077	3,725	22%
FY 2020	3,739	805	2,934	22%
FY 2021	2,904	660	2,244	23%
FY 2022	3,411	744	2,667	22%
FY 2023	3,261	686	2,575	21%
5-Year Avg. FY 2019-FY 2023	**3,623**	**794**	**2,829**	**22%**
Apr. 2024-Mar. 2025	**1,698**	**527**	**1,171**	**31%**
Source: Columns A and B: DHS, USCIS, OPQ; ELIS and CLAIMS4 databases, queried Aug. 2025, PAER0018557 (for FY 2019 through FY 2023), PAER0018694 (for April 2024 through March 2025); Columns C and D: USCIS analysis.				

4. Fee Adjustments

USCIS employs an ABC methodology to determine the fees necessary to recover the full costs of adjudication and naturalization services. This approach assigns resource costs to operational activities and allocates them to specific immigration benefit requests, including biometric services. USCIS identified all the major steps and determined the resources consumed in processing Form N–400 and Form N–336. The methodology accounts for cost drivers that influence the overall expense of processing Form N–400 and Form N–336. USCIS also conducted a detailed analysis of each form to determine its cost structure. USCIS then used the costing methodology to evaluate whether current fees recover the full costs of adjudicating each form. Further, USCIS used the beneficiary-pays principle in setting the proposed fees for Form N–400 and Form N–336. Under the beneficiary-pays principle, the beneficiaries of a service pay the cost of receiving that service.[122]

Table V.7 shows the current fees and proposed fees for Form N–400 and Form N–336.[123] DHS is not proposing to change the $50 discount for filing Form N–400 and Form N–336 online. This proposed rulemaking would also eliminate the reduced fee for aliens applying for Form N–400 whose household income is greater than 150 percent of the FPG but less than or equal

[122] For more information on the ABC methodology and the beneficiary-pays principle, see Section III, Background and Purpose.

[123] For current fees, *see* USCIS, G–1055, ''Fee Schedule,'' *https://www.uscis.gov/g-1055* (last updated Oct. 28, 2025).

to 400 percent of the FPG (indicated by N/A in the table).[124]

Table V.7: Current Fees and Proposed Fees for Form N-400 and Form N-336			
Immigration Benefit Request	**Current Fee**	**Proposed Fee**	**Percent Change in Current to Proposed Fee**
Form N-336 Request for a Hearing on a Decision in Naturalization Proceedings Under Section 336 (online filing)	$780	$1,425	83%
Form N-336 Request for a Hearing on a Decision in Naturalization Proceedings Under Section 336 (paper filing)	$830	$1,475	78%
Form N-400 Application for Naturalization (online filing)	$710	$1,280	80%
Form N-400 Application for Naturalization (paper filing)	$760	$1,330	75%
Form N-400 Application for Naturalization (applicants with household income below 400 percent of the FPG)	$380	N/A	N/A
Note: The current Form N-400 reduced fee option of $380 is only available through paper filing.			

The populations impacted by the fee change would include aliens who submit Form N–400 and Form N–336. DHS uses receipts of Form N–400 and Form N–336 that did not have the fee waived or reduced (Table V.4 and Table V.6) to estimate the impact on populations affected by the proposed fee changes. Economic impacts are estimated using populations by time period, FY 2019 through FY 2023 and April 2024 through March 2025, then a median between the populations of the two periods is used to calculate a primary estimate.[125]

Table V.8 shows the economic impacts of fee adjustments for Form N–400. DHS estimates that the number of receipts of Form N–400 from non-military aliens who would be impacted by the fee increase to Form N–400 would range between 697,124 [126] (annual average, FY 2019 through FY 2023) and 802,553 [127] (annual, April 2024 through March 2025); the median between these two time periods would be 749,839.[128] The estimated annual transfer payments from current full fee-paying applicants to USCIS for Form N–400 would range between $397,360,680 [129] and $457,455,210; [130] the estimated median annual transfer payment would be $427,408,230 (primary estimate).[131]

As shown in Table V.8, the estimated number of receipts of Form N–400 from military members and veteran aliens would range between 9,670 (annual average, FY 2019 through FY 2023) and 19,360 (annual, April 2024 through March 2025); [132] the median between these two periods would be 14,515. The estimated annual transfer payments from DOW to USCIS for Form N–400 would range between $5,511,900 and $11,035,200; the estimated median annual transfer payment would be $8,273,550 (primary estimate).[133] However, the annual transfer payments from DOW to USCIS (reimbursement) cannot exceed $7,500,000 in one year (*see* 10 U.S.C. 1790) and the current cost of military naturalizations goes beyond the amount of funds allocated by Congress. As mentioned in the preamble of this proposed rule, the estimated total cost of military Form N–400 applications was about $20 million in FY 2024.[134] As a result, the remainder would be paid for by other non-military Form N–400 applicants in the form of higher fees.[135] This has been accounted for in setting the proposed fee for Form N–400, therefore the remainder estimated transfer payment is from non-military fee-paying applicants to USCIS and is already captured. Since the $20 million already exceeds the annual $7.5 million limit, there would be no new transfers from DOW to USCIS as a result of this proposed rule and would not be accounted for as an additional economic impact.

[124] The 2024 Fee Rule changed the reduced fee eligibility for Form N–400 applicants whose household income is greater than 150 percent of the FPG and is at or under 400 percent of the FPG from applicants whose household income is greater than 150 percent of the FPG and not more than 200 percent of the FPG.

[125] The median accounts for the variability between the populations before and after the 2024 Fee Rule went into effect as there were noticeable changes in filing behavior between the two periods even though population data are currently limited for the time period after the 2024 Fee Rule went into effect.

[126] Calculation: 697,124 = 400,627 (Table V.3) + 296,497 (Table V.4).

[127] Calculation: 802,553 = 601,859 (Table V.3) + 200,694 (Table V.4).

[128] Calculation: 749,839 = 501,243 (Form N–400 non-military median online filing) + 248,596 (Form N–400 non-military median net paper filing).

[129] Calculation: $397,360,680 = $228,357,390 (Form N–400 non-military online filing transfer payment for FY 2019 through FY 2023) + $169,003,290 (Form N–400 non-military net paper filing transfer payment for FY 2019 through FY 2023).

[130] Calculation: $457,455,210 = $343,059,630 (Form N–400 non-military online filing transfer payment for April 2024 through March 2025) + $114,395,580 (Form N–400 non-military net paper filing transfer payment for April 2024 through March 2025).

[131] Calculation: $427,408,230 = $285,708,510 (Form N–400 non-military online filing median transfer payment) + $141,699,720 (Form N–400 non-military net paper filing median transfer payment).

[132] Receipts of 9,670 and 19,360 from Table V.3.

[133] Although qualified current and former military members and veterans will remain exempt from paying the Form N–400 filing fee, the current baseline fee of $760 is used in the transfer payment calculation to show the impact of the fee adjustments to the form and the transfer payment from DOW to USCIS.

[134] See Section III.D, ''Activity-Based Costing Methodology,'' for more information.

[135] Since DOW covers about 38 percent of military naturalization fees ($7.5 million ÷ $20 million = 38 percent (rounded)), non-military applicants would be covering more than the cost of their Form N–400 adjudication.

Table V.8: Economic Impacts of Fee Adjustments to Form N-400						
Immigration Benefit Request	**Year**	**Receipts A**	**Current Fee (Baseline) B**	**Proposed Fee C**	**Change in Current to Proposed Fee D = C - B**	**Transfer Payment E = A × D**
Form N-400 (Non-Military, Online Filing)	FY 2019-FY 2023	400,627	$710	$1,280	$570	$228,357,390
	Apr. 2024-Mar. 2025	601,859	$710	$1,280	$570	$343,059,630
	Median	501,243	$710	$1,280	$570	$285,708,510
Form N-400 (Non-Military, Net Paper Filing)	FY 2019-FY 2023	296,497	$760	$1,330	$570	$169,003,290
	Apr. 2024-Mar. 2025	200,694	$760	$1,330	$570	$114,395,580
	Median	248,596	$760	$1,330	$570	$141,699,720
Form N-400 (Non-Military) Total	**FY 2019-FY 2023**	**697,124**				**$397,360,680**
	Apr. 2024-Mar. 2025	**802,553**				**$457,455,210**
	Median	**749,839**				**$427,408,230**
Form N-400 (Military)	**FY 2019-FY 2023**	**9,670**	**$760**	**$1,330**	**$570**	**$5,511,900**
	Apr. 2024-Mar. 2025	**19,360**	**$760**	**$1,330**	**$570**	**$11,035,200**
	Median	**14,515**	**$760**	**$1,330**	**$570**	**$8,273,550**

Source: USCIS analysis.
Note: The fee for Form N-400 (military) is reimbursed by DOW at the paper-filing fee, regardless if the form is filed online; *see* 2024 Fee Rule. Therefore, the total military population from Table V.3 is used in this table.

Table V.9 shows the economic impacts of fee adjustments for Form N–336. The estimated number of receipts of Form N–336 from non-military aliens who would be impacted by the fee increase to Form N–336 would range between 4,690[136] (annual average, FY 2019 through FY 2023) and 3,377[137] (annual, April 2024 through March 2025); the median between these two periods would be 4,034.[138] The estimated annual transfer payments from current full fee-paying applicants to USCIS for Form N–336 would range between $3,025,050[139] and $2,178,165;[140] the estimated median annual transfer payment would be $2,601,930 (primary estimate).[141]

As shown in Table V.9, the estimated number of receipts of Form N–336 from military members and veteran aliens would range between 58 (annual average, FY 2019 through FY 2023) and 63 (annual, April 2024 through March 2025);[142] the median between these two periods is 61. The DOW does not reimburse USCIS for the fee from military members and veteran aliens for Form N–336, therefore the transfer payment would be from fee-paying applicants to USCIS. The estimated annual transfer payments from current full fee-paying applicants to USCIS for Form N–336 would range between $37,410 and $40,635; the estimated median annual transfer payment would be $39,345 (primary estimate).

The estimated total receipts of Form N–336 from aliens who would be impacted by the fee increase to Form N–336 would range between 4,748[143] (annual average, FY 2019 through FY 2023) and 3,440[144] (annual, April 2024 through March 2025); the median between these two periods would be 4,095.[145] The total estimated transfer payments from current full fee-paying applicants to USCIS accounting for non-military and military aliens for Form N–336 would range between $3,062,460[146] and $2,218,800;[147] the estimated median transfer payment would be $2,641,275.[148]

[136] Calculation: 4,690 = 1,861 (Table V.5) + 2,829 (Table V.6).

[137] Calculation: 3,377 = 2,206 (Table V.5) + 1,171 (Table V.6).

[138] Calculation: 4,034 = 2,034 (Form N–336 non-military median online filing) + 2,000 (Form N–336 non-military median net paper filing).

[139] Calculation: $3,025,050 = $1,200,345 (Form N–336 non-military online filing transfer payment for FY 2019 through FY 2023) + $1,824,705 (Form N–336 non-military net paper filing transfer payment for FY 2019 through FY 2023).

[140] Calculation: $2,178,165 = $1,422,870 (Form N–336 non-military online filing transfer payment for April 2024 through March 2025) + $755,295 (Form N–336 non-military net paper filing transfer payment for April 2024 through March 2025).

[141] Calculation: $2,601,930 = $1,311,930 (Form N–336 non-military online filing median transfer payment) + $1,290,000 (Form N–336 non-military net paper filing transfer payment).

[142] Receipts of 58 and 63 from Table V.5.

[143] Calculation: 4,748 = 4,690 (Form N–336 non-military total receipts for FY 2019 through FY 2023) + 58 (Form N–336 military receipts for FY 2019 through FY 2023).

[144] Calculation: 3,440 = 3,377 (Form N–336 non-military total receipts for April 2024 through March 2025) + 63 (Form N–336 military receipts for April 2024 through March 2025).

[145] Calculation: 4,095 = 4,034 (Form N–336 non-military median receipts) + 61 (Form N–336 military median receipts).

[146] Calculation: $3,062,460 = $3,025,050 (Form N–336 non-military total transfer payment for FY 2019 through FY 2023) + $37,410 (Form N–336 military transfer payment for FY 2019 through FY 2023).

[147] Calculation: $2,218,800 = $2,178,165 (Form N–336 non-military total transfer payment for April 2024 through March 2025) + $40,635 (Form N–336 military transfer payment for April 2024 through March 2025).

[148] Calculation: $2,641,275 = $2,601,930 (Form N–336 non-military total median transfer payment) + $39,345 (Form N–336 military median transfer payment.

Table V.9: Economic Impacts of Fee Adjustments to Form N-336						
Immigration Benefit Request	Year	Receipts	Current Fee (Baseline)	Proposed Fee	Change in Current to Proposed Fee	Transfer Payment
		A	B	C	D = C - B	E = A × D
Form N-336 (Non-Military, Online Filing)	FY 2019-FY 2023	1,861	$780	$1,425	$645	$1,200,345
	Apr. 2024-Mar. 2025	2,206	$780	$1,425	$645	$1,422,870
	Median	2,034	$780	$1,425	$645	$1,311,930
Form N-336 (Non-Military, Net Paper Filing)	FY 2019-FY 2023	2,829	$830	$1,475	$645	$1,824,705
	Apr. 2024-Mar. 2025	1,171	$830	$1,475	$645	$755,295
	Median	2,000	$830	$1,475	$645	$1,290,000
Form N-336 (Non-Military) Total	**FY 2019-FY 2023**	**4,690**				**$3,025,050**
	Apr. 2024-Mar. 2025	**3,377**				**$2,178,165**
	Median	**4,034**				**$2,601,930**
Form N-336 (Military)	**FY 2019-FY 2023**	**58**	**$830**	**$1,475**	**$645**	**$37,410**
	Apr. 2024-Mar. 2025	**63**	**$830**	**$1,475**	**$645**	**$40,635**
	Median	**61**	**$830**	**$1,475**	**$645**	**$39,345**
Form N-336 Total	**FY 2019-FY 2023**	**4,748**				**$3,062,460**
	Apr. 2024-Mar. 2025	**3,440**				**$2,218,800**
	Median	**4,095**				**$2,641,275**
Source: USCIS analysis.						

DHS has proposed fees for the adjudication and processing of Form N–400 and Form N–336 so that the form fees would recover the full cost of providing those services, as well as performing screening and vetting checks which USCIS is continuously enhancing, allowing USCIS to improve the integrity of the U.S. naturalization system and ensure full compliance with current naturalization laws. DHS acknowledges that increasing fees might adversely affect some applicants' ability to apply for naturalization benefits. Yet, as described elsewhere in this rule, DHS believes that a naturalization benefit is an inelastic good and that most aliens would ultimately pay the fees and/or only some would briefly defer applying for a request. DHS does not have any data indicating that the proposed fee changes would deter many aliens from applying for naturalization.

5. Amendments

a. Fee Waivers

DHS proposes to amend 8 CFR 106.3(a)(3) to end the availability of fee waivers for aliens applying for Form N–400 and Form N–336. Currently an alien can request a fee waiver. An alien establishes an inability to pay the fee by meeting at least one of the following criteria:

- Had a household income at or below 150 percent of the FPG; [149]
- The alien or a qualifying household family member currently receives a means-tested benefit;
- Is experiencing extreme financial hardship, such as unexpected medical bills or emergencies.[150]

With this rule, DHS intends to require aliens applying for Form N–400 and Form N–336 to pay the full proposed fee regardless of their ability to pay the fee.[151] DHS would continue to provide fee exemptions for aliens applying under sections 328 or 329 of the INA, 8 U.S.C. 1439, 1440, with respect to military service, as these fee exemptions are required by statute and DOW provides partial funding for these applications.

The populations impacted by the elimination of fee waivers would include aliens who would request a fee waiver that accompanies the benefit request (Form N–400 or Form N–336). DHS uses approved fee waiver requests (Table V.4 and Table V.6) to estimate the impact on populations affected by the proposed elimination of fee waivers.[152] Economic impacts are estimated using populations by time period, FY 2019 through FY 2023 and April 2024 through March 2025, then a median between the populations of two periods is used to calculate a primary estimate.[153]

Table V.10 shows the economic impacts of the elimination of fee waivers for Form N–400 and Form N–336. DHS estimates that the number of approved fee waivers for Form N–400 from non-military aliens who would be impacted by the elimination of fee waivers would range between 136,314 (annual average, FY 2019 through FY 2023) and 157,488 (annual, April 2024 through March 2025); [154] the median between these two time periods would be 146,901. The estimated annual transfer payments from current non-military fee-waiver eligible aliens to USCIS for Form N–400 would range between $181,297,620 and $209,459,040; the estimated median

[149] The Secretary of the Department of Health and Human Services (HHS), Office of the Assistant Secretary for Planning and Evaluation, establishes the FPG annually. The 2025 HHS Poverty Guidelines can be found at 90 FR 5917 (Jan. 17, 2025).

[150] This may include, but is not limited to, medical expenses of family members, unemployment, eviction, and homelessness as described on Form I–912 instructions.

[151] Fee waivers will still be available at the discretion of the USCIS Director. *See* 8 CFR 106.3.

[152] The population estimates in this analysis are based only on approved fee waiver requests. The data does not include all fee waiver requests or requests that were denied. Therefore, the total population may be underestimated. DHS recognizes that aliens who requested a fee waiver but were denied would also be affected by the proposed removal of fee waivers. These individuals may save time under the new policy, but DHS does not have data about them. Some aliens may review Form I–912 and decide on their own that they do not qualify for a fee waiver. These applicants do not complete Form I–912. They may also save time, but DHS cannot estimate how many people this would affect.

[153] The median accounts for the variability between the populations before and after the 2024 Fee Rule went into effect as there were noticeable changes in filing behavior between the two periods even though data are currently limited for the time period after the 2024 Fee Rule went into effect.

[154] Approvals of 136,314 and 157,488 from Table V.4.

annual transfer payment would be $195,378,330 (primary estimate).

As shown in Table V.10, the estimated number of approved fee waivers for Form N–336 from non-military aliens who would be impacted by the elimination of fee waivers would range between 794 (annual average, FY 2019 through FY 2023) and 527 (annual, April 2024 through March 2025); [155] the median between these two time periods would be 661. The estimated annual transfer payments from current non-military fee-waiver eligible aliens to USCIS for Form N–336 would range between $1,171,150 and $777,325; the estimated median annual transfer payment would be $974,975 (primary estimate).

Table V.10: Transfers due to Eliminating Fee waivers for Non-Military Aliens for Form N-400 and Form N-336

Immigration Benefit Request	Year	Approved Fee Waivers	Current Fee (Baseline)	Proposed Fee	Change in Current to Proposed Fee	Transfer Payment
		A	B	C	D = C - B	E = A × D
Form N-400 (Non-Military, Paper Filing)	FY 2019-FY 2023	136,314	$0	$1,330	$1,330	$181,297,620
	Apr. 2024-Mar. 2025	157,488	$0	$1,330	$1,330	$209,459,040
	Median	146,901	$0	$1,330	$1,330	$195,378,330
Form N-336 (Non-Military, Paper Filing)	FY 2019-FY 2023	794	$0	$1,475	$1,475	$1,171,150
	Apr. 2024-Mar. 2025	527	$0	$1,475	$1,475	$777,325
	Median	661	$0	$1,475	$1,475	$974,975
Source: USCIS analysis.						

Aliens can request a fee waiver by submitting Form I–912 or by a written request.[156] Because DHS proposes to eliminate eligibility for fee waivers for Form N–400 and Form N–336, there would no longer be a time burden for completing Form I–912. DHS estimates the time burden for completing Form I–912 is 1.095 hours.[157] The opportunity cost of time would be a cost savings for non-military aliens who are no longer eligible for fee waivers.

Because aliens approved for fee waivers would have demonstrated an inability to pay the fee, we would not expect many of them to earn ''high-tier'' wages. The Federal minimum wage is currently $7.25 per hour,[158] but many States have implemented higher minimum wage rates.[159] However, the Federal Government does not track a nationwide population-weighted minimum wage estimate. Aliens in the populations of interest could be located anywhere within the United States and may be subject to a range of minimum wage rates depending on the State or city in which the alien lives.

Consistent with other rules, DHS uses the 10th percentile hourly wage from the Bureau of Labor Statistics (BLS) National Occupational Employment and Wage Estimates for all occupations as a reasonable proxy for the effective minimum wage for individuals who are likely to earn an entry-level wage. BLS estimates account for changes in wages across the United States labor market, which is updated annually and will thus reflect any changes to State minimum wage rates. The 10th percentile hourly wage estimate for all occupations is currently $14.42, not accounting for worker benefits.[160]

DHS accounts for worker benefits when estimating the opportunity cost of time by calculating a benefits-to-wage multiplier using the most recent BLS report detailing average total employee compensation for all civilian American workers.[161] DHS estimates the benefits-to-wage multiplier to be 1.46, which incorporates employee wages and salaries and the full cost of benefits, such as paid leave, insurance, and retirement.[162] Therefore, using the benefits-to-wage multiplier, DHS calculates the total rate of compensation as $21.05 per hour, where the 10th percentile hourly wage estimate is $14.42 per hour and the average benefits are $6.63 per hour.[163]

Using the time burden for completing Form I–912 and the total rate of compensation, DHS estimates the opportunity cost of time for completing and submitting Form I–912 would be $23.05 per fee waiver request.[164] The total opportunity cost of time is calculated by applying the opportunity cost of time per fee waiver request to the approvals shown in Table V.4 and Table V.6 for FY 2019 through FY 2023, April 2024 through March 2025, and the median approvals between the two time periods.[165] The total opportunity cost of time would be a cost savings for non-

[155] Approvals of 794 and 527 from Table V.6.

[156] Although fee waiver requests are mainly submitted using Form I–912, a recent survey of approved fee waiver requests during July 2025 by USCIS Office of Intake and Document Production indicated that 1 out of 268 Form N–400 fee waiver approvals (0.4 percent) were submitted not using Form I–912.

[157] *See* Paperwork Reduction Act (PRA) Supporting Statement for USCIS Form I–912 Instructions (OMB control number 1615–0016). The PRA Supporting Statement can be found at p. 12 of the form instructions, *https://www.uscis.gov/sites/default/files/document/forms/i-912instr.pdf* (expires Mar. 31, 2027).

[158] *See* DOL, ''Minimum Wage,'' *https://www.dol.gov/general/topic/wages/minimumwage* (last visited Sept. 8, 2025).

[159] *See* DOL, ''State Minimum Wage Laws,'' *https://www.dol.gov/agencies/whd/minimum-wage/state* (last updated July 31, 2025).

[160] *See* BLS, ''May 2024 Occupational Employment and Wage Statistics,'' ''National,'' ''All Occupations'' (SOC #00–0000), *https://www.bls.gov/oes/tables.htm* and *https://data.bls.gov/oes/#/industry/000000* (last updated Apr. 2, 2025).

[161] *See* BLS, Economic News Release, ''Employer Costs for Employee Compensation—March 2025,'' Table 1. Employer costs for employer compensation by ownership, p. 4 (June 13, 2025), *https://www.bls.gov/news.release/archives/ecec_06132025.pdf* (last visited Sept. 8, 2025).

[162] The benefits-to-wage multiplier is calculated as follows: (Total Employee Compensation per hour) ÷ (Wages and Salaries per hour) = $47.92 ÷ $32.92 = 1.46 (rounded). *See* BLS, Economic News Release, ''Employer Costs for Employee Compensation—March 2025,'' Table 1. Employer costs for employer compensation by ownership, p. 4 (June 13, 2025), *https://www.bls.gov/news.release/archives/ecec_06132025.pdf.*

[163] The calculation of the benefits-weighted 10th percentile hourly wage estimate: $14.42 per hour × 1.46 benefits-to-wage multiplier = $21.05 per hour.

[164] Calculation: 1.095 hours × 21.05 per hour = $23.05 per fee waiver request.

[165] The estimates for opportunity cost of time are for approvals only because the population data provided does not include total fee waiver requests and is not inclusive of any requests that may have been denied. Therefore, the opportunity cost of time may be underestimated in this analysis.

military aliens who would no longer have the option to apply for fee waivers.

Table V.11 shows the total opportunity cost of time (cost savings) for fee waiver requests for Form N–400 and Form N–336. DHS estimates that the number of approved fee waivers for Form N–400 from non-military aliens impacted by the elimination of fee waivers would range between 136,314 (annual average, FY 2019 through FY 2023) and 157,488 (annual, April 2024 through March 2025); [166] the median between these two time periods would be 146,901. The estimated annual cost savings for non-military aliens who would no longer be eligible for fee waivers for Form N–400 would range between $3,142,038 and $3,630,098; the estimated annual median cost savings would be $3,386,068 (primary estimate).

The estimated number of approved fee waivers for Form N–336 from non-military aliens impacted by the elimination of fee waivers would range between 794 (annual average, FY 2019 through FY 2023) and 527 (annual, April 2024 through March 2025); [167] the median between these two time periods would be 661. The estimated annual cost savings for non-military aliens who would no longer be eligible for fee waivers for Form N–336 would range between $18,302 and $12,147; the estimated median annual median cost savings would be $15,236 (primary estimate).

Table V.11: Opportunity Cost of Time (Cost Savings) for Fee Waiver Approvals for Non-Military Aliens for Form N-400 and Form N-336

Immigration Benefit Request	Year	Approved Fee Waivers	Opportunity Cost of Time per Request	Total Opportunity Cost of Time (Cost Savings)
		A	B	E = A × B
Form N-400 (Non-Military, Paper Filing)	FY 2019-FY 2023	136,314	$23.05	$3,142,038
	Apr. 2024-Mar. 2025	157,488	$23.05	$3,630,098
	Median	146,901	$23.05	$3,386,068
Form N-336 (Non-Military, Paper Filing)	FY 2019-FY 2023	794	$23.05	$18,302
	Apr. 2024-Mar. 2025	527	$23.05	$12,147
	Median	661	$23.05	$15,236

Source: USCIS analysis.

DHS does not anticipate any costs to USCIS operations that would result from the elimination of fee waivers as described in this proposed rule. DHS acknowledges that limiting fee waivers might adversely affect some applicants' ability to apply for naturalization benefits.

DHS anticipates this proposed rule would produce a qualitative benefit for USCIS by allowing resources that would have been expended on adjudicating and processing fee waiver requests to instead be devoted to other tasks or product lines. The proposed rule would also reduce administrative costs to adjudicate Forms I–912, N–400 and N–336 that are submitted by aliens who are ineligible for naturalization or a fee waiver, and may know they are not eligible, but they file the application anyway because it would potentially be free if USCIS ultimately approved the fee waiver. USCIS also would recover the cost of adjudicating and processing Form N–400 and Form N–336 from those who receive the benefit. However, eliminating fee waivers might cause certain aliens who are eligible to become naturalized U.S. citizens to defer applying and paying the increased fee. This could result in additional lawful permanent resident (LPR) requests in the future for renewal of their Permanent Resident Cards (''Green'' Card) which would be an added burden to applicants and USCIS.

b. Reduced Fees

DHS proposes to amend 8 CFR 106.2(b)(3) to end the availability of reduced fees for aliens applying for Form N–400. Currently an alien is eligible for a reduced fee if the applicant has a documented household income that is less than or equal to 400 percent of the FPG. DHS proposes to require aliens submitting Form N–400 to pay the full fee.

The populations impacted by the proposed elimination of reduced fees include aliens who would request reduced fees using Form N–400.[168] DHS uses approved requests for reduced fees (Table V.4) to estimate the impact on populations affected by the proposed elimination of reduced fees.[169] Economic impacts are estimated using populations by time period, FY 2019 through FY 2023 and April 2024 through March 2025, then a median between the populations of two periods is used to calculate a primary estimate.[170]

Table V.12 shows the transfers that could result from the elimination of reduced fees for Form N–400. DHS estimates that the number of approved reduced fee requests for Form N–400 from non-military aliens who would be impacted by the elimination of reduced fees would range between 2,878 (annual average, FY 2019 through FY 2023) and 32,344 (annual, April 2024 through March 2025); [171] the median between these two time periods would be 17,611. The estimated annual transfer payments from current non-military reduced fee eligible aliens to USCIS for Form N–400 would range between $2,734,100 and $30,726,800; the estimated median annual transfer payment would be $16,730,450 (primary estimate).

[166] Approvals of 136,314 and 157,488 from Table V.4.

[167] Approvals of 794 and 527 from Table V.6.

[168] Aliens currently requesting a reduced fee must complete Part 10 of Form N-400.

[169] The population estimates in this analysis are based only on approved fee reduction requests. The data does not include all fee reduction requests, nor does it include requests that were denied. As a result, the total population may be underestimated. DHS understands that people who requested reduced fees but were denied would also be affected by the proposed removal of reduced fees. These individuals may save time under the new policy. However, DHS does not have data about these individuals. Additionally, some aliens may review Part 10 of Form N–400 and decide themselves that they do not qualify for a reduced fee. These applicants do not complete Part 10. They may also save time, but DHS cannot estimate how many people this would affect.

[170] The median accounts for the variability between the populations before and after the 2024 Fee Rule went into effect as there were noticeable changes in filing behavior between the two periods even though data are currently limited for the time period after the 2024 Fee Rule went into effect.

[171] Approvals of 2,878 and 32,344 from Table V.4.

Table V.12: Transfers Resulting from Eliminating Reduced Fees for Non-Military Aliens for Form N-400						
Immigration Benefit Request	Year	Approved Reduced Fees	Current Fee (Baseline)	Proposed Fee	Change in Current to Proposed Fee	Transfer Payment
		A	B	C	D = C - B	E = A × D
Form N-400 (Non-Military, Paper Filing)	FY 2019-FY 2023	2,878	$380	$1,330	$950	$2,734,100
	Apr. 2024-Mar. 2025	32,344	$380	$1,330	$950	$30,726,800
	Median	17,611	$380	$1,330	$950	$16,730,450
Source: USCIS analysis.						

Aliens requesting a reduced fee must complete Part 10 of Form N–400. DHS estimates the current time burden for completing Part 10 of Form N–400 is 0.25 hours.[172] Because DHS proposes to eliminate eligibility for reduced fees for Form N–400, Part 10 would be removed from the form. As a result, applicants would no longer spend time completing this section. The decrease in time burden would be a cost savings for aliens who could no longer request a reduced fee.

Because aliens approved for reduced fees would have demonstrated they qualified based on their income as compared to the FPG, we would not expect many of them to earn ''high-tier'' wages, however we would expect this population to earn higher wages than the population requesting fee waivers. Therefore, DHS uses the 25th percentile hourly wage from the BLS National Occupational Employment and Wage Estimates for all occupations as a reasonable proxy for the effective minimum wage for individuals in this population. The 25th percentile hourly wage estimate for all occupations is currently $17.66, not accounting for worker benefits.[173]

Again, DHS accounts for worker benefits when estimating the opportunity cost of time by calculating a benefits-to-wage multiplier using the most recent BLS report detailing average total employee compensation for all civilian American workers.[174] DHS estimates the benefits-to-wage multiplier to be 1.46, which incorporates employee wages and salaries and the full cost of benefits, such as paid leave, insurance, and retirement.[175] Therefore, using the benefits-to-wage multiplier, DHS calculates the total rate of compensation as $25.78 per hour, where the 25th percentile hourly wage estimate is $17.66 per hour and the average benefits are $8.12 per hour.[176]

Using the estimated time burden for completing Part 10 of Form N–400 and the total rate of compensation, DHS estimates the opportunity cost of time for completing and submitting Part 10 of Form N–400 would be $6.45 per fee reduction request.[177] The total opportunity cost of time is calculated by applying the opportunity cost of time per fee reduction request to the approvals shown in Table V.4 for FY 2019 through FY 2023, April 2024 through March 2025, and the median approvals between the two time periods.[178] The total opportunity cost of time would be a cost savings for non-military aliens who would no longer be eligible for reduced fees.

Table V.13 shows the total opportunity cost of time (cost savings) for reduced fee requests for Form N–400. DHS estimates that the number of approved reduced fee requests for Form N–400 from non-military aliens who would be impacted by the elimination of reduced fees would range between 2,878 (annual average, FY 2019 through FY 2023) and 32,344 (annual, April 2024 through March 2025);[179] the median between these two time periods would be 17,611. The estimated annual cost savings for non-military aliens who would no longer be able to apply for reduced fees for Form N–400 would range between $18,563 and $208,619; the estimated median annual cost savings would be $113,591 (primary estimate).

[172] USCIS estimates the time burden for a N–400 respondent to read the instructions and complete the current Part 10 of the form is about 15 minutes (0.25 hours). Because the respondent population for reduced fees is relatively small (approximately 3 percent of the overall population), USCIS would not modify the time burden for the other unaffected 97 percent.

[173] *See* BLS, ''May 2024 Occupational Employment and Wage Statistics,'' ''National,'' ''All Occupations'' (SOC #00–0000), *https://www.bls.gov/oes/tables.htm* and *https://data.bls.gov/oes/#/industry/000000* (last updated Apr. 2, 2025).

[174] *See* BLS, Economic News Release, ''Employer Costs for Employee Compensation—March 2025,'' Table 1. Employer costs for employer compensation by ownership, p. 4 (June 13, 2025), *https://www.bls.gov/news.release/archives/ecec_06132025.pdf.*

[175] The benefits-to-wage multiplier is calculated as follows: (Total Employee Compensation per hour) ÷ (Wages and Salaries per hour) = $47.92 ÷ $32.92 = 1.46 (rounded). *See* BLS, Economic News Release, ''Employer Costs for Employee Compensation—March 2025,'' Table 1. Employer costs for employer compensation by ownership, p. 4 (June 13, 2025), *https://www.bls.gov/news.release/archives/ecec_06132025.pdf.*

[176] The calculation of the benefits-weighted 25th percentile hourly wage estimate: $17.66 per hour × 1.46 benefits-to-wage multiplier = $25.78 per hour.

[177] Calculation: 0.25 hours × $25.78 per hour = $6.45 per fee reduction request.

[178] The estimates for opportunity cost of time are for approvals only because the population data provided does not include total fee reduction requests and is not inclusive of any requests that may have been denied. Therefore, the opportunity cost of time may be underestimated in this analysis.

[179] Approvals of 2,878 and 32,344 from Table V.4.

Table V.13: Opportunity Cost of Time (Cost Savings) for Approved Reduced Fee Requests for Non-Military Aliens for Form N-400				
Immigration Benefit Request	Year	Approved Reduced Fees	Opportunity Cost of Time per Request	Total Opportunity Cost of Time (Cost Savings)
		A	B	C = A × B
Form N-400 (Non-Military, Paper Filing)	FY 2019-FY 2023	2,878	$6.45	$18,563
	Apr. 2024-Mar. 2025	32,344	$6.45	$208,619
	Median	17,611	$6.45	$113,591
Source: USCIS analysis.				

DHS is proposing fees for the adjudication and processing of Form N–400 in order to recover full costs of providing naturalization services from those forms. DHS does not anticipate any additional costs to USCIS operations that would result from the elimination of reduced fees as described in this proposed rule. DHS acknowledges that eliminating reduced fees might adversely affect some applicants' ability to apply for naturalization benefits.

DHS anticipates this rule would produce a qualitative benefit for USCIS by allowing resources that would have been expended on adjudicating and processing reduced fee requests to instead be devoted to other tasks or product lines. Additionally, USCIS would recover the full cost of adjudicating and processing Form N–400. However, eliminating reduced fees might cause certain aliens who are eligible to become naturalized U.S. citizens to defer applying and paying the increased fee. This could result in additional lawful permanent resident (LPR) requests in the future for renewal of their Permanent Resident Cards (''Green'' Card) which would be an added burden to applicants and USCIS.

6. Total Quantified Cost Savings and Transfer Payments

Table V.14 shows the undiscounted annual cost savings and transfer payments for the relevant provisions.

Table V.14: Summary of Annual Quantified Economic Impacts for Each Provision			
	Undiscounted Cost Savings to Fee-Waived/Reduced Aliens		
Provisions	**FY 2019 through FY 2023**	**Apr. 2024 through Mar. 2025**	**Primary Estimate**
8 CFR 106.3(a)(3)(i)--Eliminates the availability of fee waivers for Form N-336	$18,302	$12,147	$15,236
8 CFR 106.3(a)(3)(i)--Eliminates the availability of fee waivers for Form N-400	$3,142,038	$3,630,098	$3,386,068
8 CFR 106.3(a)(3)(i)--Eliminates the reduced fee for Form N-400	$18,563	$208,619	$113,591
Total	**$3,178,903**	**$3,850,864**	**$3,514,895**
	Undiscounted Transfer Payments from Current Full Fee-Paying Aliens to USCIS		
Provisions	**FY 2019 through FY 2023**	**Apr. 2024 through Mar. 2025**	**Primary Estimate**
8 CFR 106.2(b)(2)--Form N-336 general fee increase	$3,062,460	$2,218,800	$2,641,275
8 CFR 106.2(b)(3)--Form N-400 general fee increase	$397,360,680	$457,455,210	$427,408,230
Total	**$400,423,140**	**$459,674,010**	**$430,049,505**
	Undiscounted Transfer Payments from Current Fee-Waiver Eligible Aliens to USCIS		
Provisions	**FY 2019 through FY 2023**	**Apr. 2024 through Mar. 2025**	**Primary Estimate**
8 CFR 106.3(a)(3)(i)--Eliminates the availability of fee waivers for Form N-336	$1,171,150	$777,325	$974,975
8 CFR 106.3(a)(3)(i)--Eliminates the availability of fee waivers for Form N-400	$181,297,620	$209,459,040	$195,378,330
Total	**$182,468,770**	**$210,236,365**	**$196,353,305**
	Undiscounted Transfer Payments from Current Reduced Fee Eligible Aliens to USCIS		
Provision	**FY 2019 through FY 2023**	**Apr. 2024 through Mar. 2025**	**Primary Estimate**
8 CFR 106.3(a)(3)(i)--Eliminates the reduced fee for Form N-400	$2,734,100	$30,726,800	$16,730,450

a. Discounted Cost Savings

Table V.15 shows the estimated discounted opportunity cost of time savings to aliens who would no longer be eligible for fee waivers or reduced fees.

Table V.15: Discounted Cost Savings for Aliens No Longer Eligible for Fee Waivers or Reduced Fees Over a 10-Year Period of Analysis

	FY 2019 through FY 2023		Apr. 2024 through Mar. 2025		Primary Estimate	
	$3,178,903 (undiscounted)		$3,850,864 (undiscounted)		$3,514,895 (undiscounted)	
Year	Discounted at 3%	Discounted at 7%	Discounted at 3%	Discounted at 7%	Discounted at 3%	Discounted at 7%
1	$3,086,314	$2,970,937	$3,738,703	$3,598,938	$3,412,519	$3,284,949
2	$2,996,421	$2,776,577	$3,629,809	$3,363,494	$3,313,126	$3,070,045
3	$2,909,147	$2,594,932	$3,524,086	$3,143,452	$3,216,627	$2,869,201
4	$2,824,414	$2,425,170	$3,421,443	$2,937,806	$3,122,939	$2,681,497
5	$2,742,150	$2,266,514	$3,321,789	$2,745,613	$3,031,979	$2,506,072
6	$2,662,281	$2,118,237	$3,225,038	$2,565,993	$2,943,669	$2,342,123
7	$2,584,739	$1,979,661	$3,131,105	$2,398,125	$2,857,931	$2,188,900
8	$2,509,455	$1,850,150	$3,039,908	$2,241,238	$2,774,691	$2,045,701
9	$2,436,364	$1,729,113	$2,951,367	$2,094,615	$2,693,874	$1,911,870
10	$2,365,402	$1,615,993	$2,865,404	$1,957,584	$2,615,412	$1,786,794
10-year Total	**$27,116,687**	**$22,327,284**	**$32,848,651**	**$27,046,857**	**$29,982,767**	**$24,687,152**
Annualized Cost Savings	**$3,178,903**	**$3,178,903**	**$3,850,864**	**$3,850,864**	**$3,514,895**	**$3,514,895**

Source: USCIS analysis.

b. Discounted Transfer Payments

Table V.16 shows the estimated discounted transfer payments from current full fee-paying aliens to USCIS due to the general fee increases for Form N–400 and Form N–336.

Table V.16: Discounted Transfer Payments from Full Fee-Paying Aliens to USCIS Over a 10-Year Period of Analysis

	FY 2019 through FY 2023		Apr. 2024 through Mar. 2025		Primary Estimate	
	$400,423,140 (undiscounted)		$459,674,010 (undiscounted)		$430,049,505 (undiscounted)	
Year	Discounted at 3%	Discounted at 7%	Discounted at 3%	Discounted at 7%	Discounted at 3%	Discounted at 7%
1	$388,760,330	$374,227,234	$446,285,447	$429,601,879	$417,523,791	$401,915,425
2	$377,437,214	$349,745,078	$433,286,841	$401,497,083	$405,362,904	$375,621,893
3	$366,443,897	$326,864,559	$420,666,836	$375,230,918	$393,556,218	$351,048,498
4	$355,770,774	$305,480,896	$408,414,404	$350,683,101	$382,093,415	$328,082,708
5	$345,408,518	$285,496,165	$396,518,839	$327,741,216	$370,964,481	$306,619,354
6	$335,348,076	$266,818,846	$384,969,747	$306,300,202	$360,159,690	$286,560,144
7	$325,580,656	$249,363,407	$373,757,036	$286,261,871	$349,669,602	$267,813,218
8	$316,097,724	$233,049,913	$362,870,908	$267,534,459	$339,485,050	$250,292,727
9	$306,890,995	$217,803,657	$352,301,853	$250,032,205	$329,597,136	$233,918,437
10	$297,952,422	$203,554,820	$342,040,634	$233,674,958	$319,997,220	$218,615,361
10-year Total	**$3,415,690,605**	**$2,812,404,575**	**$3,921,112,544**	**$3,228,557,891**	**$3,668,409,508**	**$3,020,487,765**
Annualized Transfers	**$400,423,140**	**$400,423,140**	**$459,674,010**	**$459,674,010**	**$430,049,505**	**$430,049,505**

Source: USCIS analysis.

Table V.17 shows the estimated discounted transfer payments from current aliens who would no longer be able to obtain fee waivers to USCIS.

Table V.17: Discounted Transfer Payments from Current Fee-Waiver Eligible Aliens to USCIS Over a 10-Year Period of Analysis

	FY 2019 through FY 2023		Apr. 2024 through Mar. 2025		Primary Estimate	
	$182,468,770 (undiscounted)		$210,236,365 (undiscounted)		$196,353,305 (undiscounted)	
Year	**Discounted at 3%**	**Discounted at 7%**	**Discounted at 3%**	**Discounted at 7%**	**Discounted at 3%**	**Discounted at 7%**
1	$177,154,146	$170,531,561	$204,112,976	$196,482,584	$190,634,277	$183,507,762
2	$171,994,316	$159,375,290	$198,167,938	$183,628,583	$185,081,822	$171,502,581
3	$166,984,773	$148,948,870	$192,396,056	$171,615,498	$179,691,089	$160,282,786
4	$162,121,139	$139,204,551	$186,792,287	$160,388,316	$174,457,368	$149,796,996
5	$157,399,164	$130,097,711	$181,351,735	$149,895,623	$169,376,086	$139,997,193
6	$152,814,722	$121,586,646	$176,069,646	$140,089,367	$164,442,802	$130,838,498
7	$148,363,808	$113,632,379	$170,941,404	$130,924,642	$159,653,206	$122,278,970
8	$144,042,532	$106,198,485	$165,962,528	$122,359,479	$155,003,112	$114,279,411
9	$139,847,118	$99,250,921	$161,128,668	$114,354,653	$150,488,458	$106,803,188
10	$135,773,901	$92,757,870	$156,435,600	$106,873,507	$146,105,299	$99,816,064
10-year Total	**$1,556,495,619**	**$1,281,584,285**	**$1,793,358,837**	**$1,476,612,252**	**$1,674,933,519**	**$1,379,103,448**
Annualized Transfers	**$182,468,770**	**$182,468,770**	**$210,236,365**	**$210,236,365**	**$196,353,305**	**$196,353,305**

Source: USCIS analysis.

Table V.18 shows the estimated discounted transfer payments from current aliens who would no longer be able to obtain reduced fees to USCIS.

Table V.18: Discounted Transfer Payments from Current Reduced Fee Eligible Aliens to USCIS Over a 10-Year Period of Analysis

	FY 2019 through FY 2023		Apr. 2024 through Mar. 2025		Primary Estimate	
	$2,734,100 (undiscounted)		$30,726,800 (undiscounted)		$16,730,450 (undiscounted)	
Year	**Discounted at 3%**	**Discounted at 7%**	**Discounted at 3%**	**Discounted at 7%**	**Discounted at 3%**	**Discounted at 7%**
1	$2,654,466	$2,555,234	$29,831,845	$28,716,636	$16,243,155	$15,635,935
2	$2,577,151	$2,388,069	$28,962,956	$26,837,977	$15,770,054	$14,613,023
3	$2,502,089	$2,231,840	$28,119,375	$25,082,222	$15,310,732	$13,657,031
4	$2,429,212	$2,085,832	$27,300,364	$23,441,329	$14,864,788	$12,763,580
5	$2,358,459	$1,949,376	$26,505,208	$21,907,784	$14,431,833	$11,928,580
6	$2,289,766	$1,821,846	$25,733,211	$20,474,564	$14,011,488	$11,148,205
7	$2,223,074	$1,702,660	$24,983,700	$19,135,107	$13,603,387	$10,418,883
8	$2,158,324	$1,591,271	$24,256,020	$17,883,277	$13,207,172	$9,737,274
9	$2,095,460	$1,487,169	$23,549,534	$16,713,343	$12,822,497	$9,100,256
10	$2,034,427	$1,389,878	$22,863,625	$15,619,947	$12,449,026	$8,504,912
10-year Total	**$23,322,428**	**$19,203,174**	**$262,105,837**	**$215,812,185**	**$142,714,132**	**$117,507,680**
Annualized Transfers	**$2,734,100**	**$2,734,100**	**$30,726,800**	**$30,726,800**	**$16,730,450**	**$16,730,450**

Source: USCIS analysis.

7. Price Elasticity

The 2024 Fee Rule provided a detailed analysis of the price response to Form N–400 from FY 1989 through FY 2022. The analysis illustrates that past increases in the Form N–400 fee have not led to aggregate reductions in the number of Form N–400 applications filed over time and that overall demand did not decrease in response to the previous ten increases in the Form N–400 fee. It also showed that significant changes in the number of Form N–400 applications filed occurred even in years with no changes to the fee. Correspondingly, the 2024 Fee Rule described the Form N–400, or the

citizenship benefit that it confers, as an inelastic good.

Further, the application and associated fee for Form N–400 is a non-discretionary step for aliens seeking citizenship, meaning there is no substitute form for eligible aliens to apply for naturalization. USCIS sets the fee for Form N–400. The fee is not set by open-market forces of supply and demand that can be intensified by the availability or lack of substitutes. If aliens are willing and eligible to seek U.S. citizenship, there is no other alternative process or cheaper option, so if they pursue citizenship they ultimately pay the one-time filing fee regardless of any Form N–400 fee increases.

DHS acknowledges that for some aliens the Form N–400 fee might be a financial burden as may be evidenced by the number of approved fee waivers and reduced fees shown in Table V.4. However, these aliens had to complete a fee waiver request, either by using Form I–912 or submitting a separate fee waiver request, or in the case of the fee reduction completing a separate part of Form N–400, and submit required evidence of eligibility for the waived or reduced fee. This requirement demonstrates that fee waivers and reduced fees are not simply available to anyone who wants to pay less, but only to those who can prove they meet the current eligibility criteria for the waived or reduced fee. Therefore, demand for fee waivers and reduced fees exists independently of general demand for lower fees; it is driven by eligibility based on financial limitations, not the existence of a cheaper option. Demand for fee relief comes from those who believe they qualify for relief, not those who do not qualify.

The 2024 Fee Rule maintained the availability of fee waivers for Form N–400 and did not change the criteria for being eligible.[180] Table V.4 shows a 16 percent increase in approved fee waivers for April 2024 through March 2025 (157,488) from the 5-year average of FY 2019 through FY 2023 (136,314).[181] More aliens who applied for naturalization met the criteria for fee waivers during April 2024 through March 2025 which resulted in increases in Form N–400 receipts. The 2024 Fee Rule also expanded the reduced fee available for Form N–400 to any alien who has a household income at or under 400 percent of the FPG.[182] Table V.4 shows there was a 1,024 percent increase in approved reduced fees for April 2024 through March 2025 (32,344) from the 5-year average of FY 2019 through FY 2023 (2,878).[183] More aliens met the criteria for reduced fees during April 2024 through March 2025, thus the expanded eligibility criteria for the reduced fees likely acted as the catalyst for increased N–400 receipts. These aliens applied for fee waivers and reduced fees because of the expectation of being approved due to financial circumstances, which was the cheaper option.

DHS reviewed and considered research on naturalization rates of low-income immigrants by Hainmueller, Lawrence, Gest, Hotard, Koslowski, and Laitin (2018) as well as Yasenov, Hotard, Lawrence, and Laitin (2019), as these papers were also reviewed in the 2024 Fee Rule.[184] [185] Hainmueller et al. suggest ''[t]o reduce fees for all low-income immigrants while covering the full cost of administrative services, USCIS could introduce a multitiered fee structure in which wealthier applicants pay higher fees'' to lower the financial barrier to naturalization. Yasenov *et al.* find that ''high application fees and difficulties accessing the fee waiver are barriers to citizenship for low-income LPRs.'' As described in this preamble, more aliens met the criteria for fee waivers during the calendar year after the 2024 Fee Rule but there were no changes in the fee ($0) or change in eligibility criteria. DHS reiterates in this proposed rule, as was stated in the 2024 Fee Rule, an observed increase in response to lowering or keeping fees at $0 cannot be directly extrapolated to yield price or income elasticity for an increase in fees. Demand for fee waivers exists independently from demand for Form N–400 at full price. Demand for fee relief comes from those who believe they qualify for relief, not those who do not qualify. For these reasons and the others described earlier in this preamble, DHS maintains that Form N–400, or the citizenship benefit that it confers, is an inelastic good.

The proposed changes in this rule would impact only Form N–400 and Form N–336, and USCIS uses the ABC methodology to evaluate whether current fees recover the full proportional costs of adjudicating each form. The two studies mentioned earlier in this preamble suggest more of an ability-to-pay principle to promote citizenship for low-income immigrants. However, it is not the intent of this proposed rule to have certain higher-income immigrant populations endure higher fees to subsidize naturalization for lower-income populations. This rule proposes to return the focus of DHS fee-setting for these forms to the beneficiary-pays principle. As described in the preamble, the beneficiary-pays principle promotes economic efficiency; therefore, setting a fee too low can induce overuse of agency resources and services.

8. Alternatives

DHS considered the possibility of maintaining the current fee for Form N–400 and the current fee for Form N–336. However, the annual cost/revenue gap for keeping the current general fees for Form N–400 of $760 (paper) and $710 (online) is estimated at $82.4 million (paper) and $232.2 million (online). The annual cost/revenue gap for keeping the current general fees for Form N–336 of $830 (paper) and $780 (online) is estimated at $0.6 million (paper) and $1.1 million (online).[186]

DHS could allow non-military alien applicants to remain eligible for fee waivers for Form N–400 and Form N–336. However, DHS notes that the estimated annual cost/revenue gap from fee waivers versus the current general fee for Form N–400 is $109.2 million and for Form N–336 is $0.5 million (Table III.3). The estimated cost/revenue gap from fee waivers versus the 2024 Fee Rule ABC model output for Form N–400 is $166.6 million and for Form N–336 is $0.74 million.

DHS could also allow non-military alien applicants to remain eligible for a reduced fee for Form N–400. The estimated annual cost/revenue gap from reduced fees versus the current general fee for Form N–400 is $4.3 million from paper filings and $5.9 million for online filings (Table III.2). The estimated cost/revenue gap from reduced fees versus the 2024 Fee Rule ABC model output for

[180] These criteria include: (1) a household income at or below 150 percent of the FPG; (2) the alien or a qualifying household family member currently receives a means-tested benefit; and (3) is experiencing extreme financial hardship, such as unexpected medical bills or emergencies.

[181] Calculation: ((157,488 total approved fee waivers Apr 2024–Mar 2025—136,314 total approved fee waivers FY 2019–FY 2023) ÷ 136,314 total approved fee waivers FY 2019–FY 2023) × 100 = 16 percent (rounded).

[182] The 2024 Fee Rule changed the reduced fee eligibility for Form N–400 applicants whose household income is greater than 150 percent of the FPG and is at or under 400 percent of the FPG from applicants whose household income is greater than 150 percent of the FPG and not more than 200 percent of the FPG.

[183] Calculation: ((32,344 total approved reduced fees Apr 2024–Mar 2025—2,878 total approved reduced fees FY 2019–FY 2023) ÷ 2,878 total approved reduced fees FY 2019–FY 2023) × 100 = 1,024 percent (rounded).

[184] *See* Hainmueller et al., ''Barriers to Citizenship.''

[185] *See* Yasenov et al., ''Standardizing the fee-waiver application.''

[186] See Table III.1 in Section III.H, ''Recent History of Form N–400 and Form N–336 Fees,'' for more information.

Form N–400 is $8.5 million for paper filings and $12.8 million for online filings.

DHS decided against the alternative of maintaining the current fee structure. The proposed fees would recover the full cost of their adjudication, according to the beneficiary-pays approach to fee setting. These proposed changes aim to align the fees for Form N–400 and Form N–336 with the costs of processing those forms, while maintaining statutory compliance and supporting USCIS' financial sustainability.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121 (Mar. 29, 1996), requires Federal agencies to consider the potential impact of regulations on small businesses, small governmental jurisdictions, and small organizations during the development of their rules. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, or governmental jurisdictions with populations of less than 50,000.[187] DHS proposes to adjust the fees for Form N–400 and Form N–336 and eliminate fee waivers for both forms and the reduced fee for aliens and U.S. nationals filing Form N–400. The populations impacted by this rule would include aliens who submit Form N–400 or Form N–336 or request a fee waiver.

This proposed rule does not directly regulate small entities and is not expected to have a direct effect on small entities. Rather, this proposed rule directly regulates and impacts aliens requesting naturalization benefits, and individuals are not considered ''small entities'' under the Regulatory Flexibility Act. Based on the evidence presented in this analysis and throughout this preamble, DHS certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and Tribal governments.[188] Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed rule, or final rule for which the agency published a proposed rule, which includes any Federal mandate that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. *See* 2 U.S.C. 1532(a). The inflation adjusted value of $100 million in 1995 is approximately $213 million in 2025 based on the Consumer Price Index for All Urban Consumers (CPI–U).[189]

This proposed rule does not contain such a mandate, because it would not impose any enforceable duty upon any other level of government or private sector entity. Rather, there might be some private-public partnership investment projects and beneficial downstream effects to State or local governments because the rule would codify the set aside for infrastructure projects. Any downstream effects on such entities would arise solely due to their voluntary choices, and the voluntary choices of others, and would not be a consequence of an enforceable duty imposed by this rule. Similarly, any costs or transfer effects on State and local governments would not result from a Federal mandate as that term is defined under UMRA. The requirements of title II of UMRA, therefore, do not apply, and DHS has not prepared a statement under UMRA. DHS has, however, analyzed many of the potential effects of this proposed action in the RIA in Section V.A of this preamble.

D. Executive Order 13132 (Federalism)

This proposed rule would not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of E.O. 13132, Federalism, it is determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

E. Executive Order 12988 (Civil Justice Reform)

This proposed rule is drafted and reviewed in accordance with E.O. 12988, Civil Justice Reform. This proposed rule was written to provide a clear legal standard for affected conduct and was reviewed carefully to eliminate drafting errors and ambiguities, so as to minimize litigation and undue burden on the Federal Court system. DHS has determined that this proposed rule meets the applicable standards provided in section 3 of E.O. 12988.

F. Family Assessment

DHS has reviewed this rule in line with the requirements of section 654 of the Treasury and General Appropriations Act, 1999,[190] enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999.[191] DHS has systematically reviewed the criteria specified in section 654(c) of the Treasury and General Appropriations Act by evaluating whether this regulatory action: (1) impacts the stability or safety of the family, particularly in terms of marital commitment; (2) impacts the authority of parents in the education, nurture, and supervision of their children; (3) helps the family perform its functions or substitutes governmental activity for the function; (4) affects disposable income or poverty of families and children; (5) only financially impacts families, if at all, to the extent such impacts are justified; (6) may be carried out by State or local government or by the family; or (7) establishes a policy concerning the relationship between the behavior and personal responsibility of youth and the norms of society. If the agency determines a regulation may negatively affect family well-being, then the agency must provide an adequate rationale for its implementation.

DHS proposes to adjust the fees that USCIS charges for Form N–400 and Form N–336, eliminate the reduced fee option for Form N–400, and eliminate the availability of fee waivers for both forms. By increasing the Form N–400 and the Form N–336 fees, this

[187] A small business is defined as any independently owned and operated business not dominant in its field of operation that qualifies as a small business per the Small Business Act, 15 U.S.C. 632.

[188] The term ''Federal mandate'' means a Federal intergovernmental mandate or a Federal private sector mandate. *See* 2 U.S.C. 1502(1), 658(5) and (6).

[189] *See* BLS, ''Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. city average, all items, by month,'' *https://data.bls.gov/pdq/SurveyOutputServlet* (last visited Feb. 3, 2026). Calculation of inflation: (1) Calculate the average monthly CPI–U for the reference year (1995) and the current year (2025); (2) Subtract reference year CPI–U from current year CPI–U; (3) Divide the difference of the reference year CPI–U and current year CPI–U by the reference year CPI–U; (4) Multiply by 100 = [(Average monthly CPI–U for 2025 − Average monthly CPI–U for 1995) ÷ (Average monthly CPI–U for 1995)] × 100 = [(324.054 − 152.383) ÷ 152.383] = (171.671 ÷ 152.383) = 1.126 × 100 = 112.6 percent = 113 percent (rounded). Calculation of inflation-adjusted value: $100 million in 1995 dollars × 2.13 = $213 million in 2025 dollars.

[190] *See* 5 U.S.C. 601 note.

[191] *See* Public Law 105–277, 112 Stat. 2681 (1998).

regulatory action may impose a higher financial burden on some families whose members may seek to naturalize or request a hearing due to the denial of a family member's naturalization application. Therefore, this rule could potentially affect disposable income of some families and children of aliens intending to naturalize or require those aliens to defer naturalization. Both scenarios could impact aliens' families financially. However, DHS believes that those potential adverse impacts would be justified by the goal of aligning fees for USCIS forms with costs of adjudicating those forms in line with the statutes that authorize the fees. The fee increases would be limited to Form N–400 and Form N–336 and would comply with sections 286(m) and 344 of the INA, 8 U.S.C. 1356(m) and 1455, as well as 31 U.S.C. 9701. DHS would retain fee exemptions for service members of the armed forces and the $50 discount for online filers. DHS believes that the benefits of the increased fees in this proposed rule, once finalized, would provide sufficient justification for the financial impact on some families. DHS has also determined that this rulemaking would not otherwise have an impact on the autonomy or integrity of the family as an institution.

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

This proposed rule would not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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.

H. National Environmental Policy Act

DHS and its components analyze proposed regulatory actions to determine whether the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.,* applies and, if so, what degree of analysis is required. DHS Directive 023–01 Rev. 01 ''Implementing the National Environmental Policy Act'' (Dir. 023– 01 Rev. 01) and Instruction Manual 023–01–001–01 Rev. 01 (Instruction Manual) [192] establish the policies and procedures that DHS and its components use to comply with NEPA.

NEPA allows Federal agencies to establish, in their NEPA implementing procedures, categories of actions (''categorical exclusions'') that experience has shown do not, individually or cumulatively, have a significant effect on the human environment and, therefore, do not require an environmental assessment or environmental impact statement.[193] The Instruction Manual, Appendix A lists the DHS Categorical Exclusions.[194]

Under DHS NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect.[195]

This proposed rule is limited to adjusting the fees for Form N–400 and Form N–336, including eliminating fee waivers and reduced fees for these forms, so that their fees recover the full cost of the adjudication, according to the beneficiary-pays approach to the fee setting. These proposed changes, once finalized, aim to align fees with the costs of processing Form N–400 and Form N–336 while maintaining statutory compliance and supporting USCIS' financial sustainability. As such, this proposed rule is only amending existing DHS regulations governing the USCIS fee schedule. DHS has reviewed this proposed rule and finds that no significant impact on the environment, or any change in environmental effect, will result from the amendments being promulgated in this proposed rule.

Accordingly, DHS finds that the promulgation of this proposed rule's amendments to current regulations clearly fits within categorical exclusion A3 established in DHS's NEPA implementing procedures as an administrative change with no change in environmental effect, is not part of a larger Federal action, and does not present extraordinary circumstances that create the potential for a significant environmental effect. Therefore, the proposed regulatory amendments are categorically excluded from further NEPA review.

I. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3512, DHS must submit to OMB for review and approval any reporting requirements inherent in a rule, unless they are exempt. Please see the accompanying PRA documentation for the full analysis. Table V.19, Information Collections, lists the information collections that are part of this rulemaking.

Table V.19. Information Collections

[192] The Instruction Manual contains DHS's procedures for implementing NEPA and was issued on November 6, 2014, *https://www.dhs.gov/ocrso/eed/epb/nepa* (last updated July 29, 2025).

[193] *See* 42 U.S.C. 4336(a)(2), 4336e(1).

[194] *See* Instruction Manual, Appendix A, Table 1.

[195] Instruction Manual at V.B(2)(a) through (c).

Table V.19. Information Collections

OMB Control No.	Form No.	Form Name	Type of PRA Action
1615-0116	I-912	Request for Fee Waiver	Revision of a Currently Approved Collection
1615-0050	N-336	Request for a Hearing on a Decision in Naturalization Proceedings Under Section 336	Revision of a Currently Approved Collection
1615-0052	N-400	Application for Naturalization	Revision of a Currently Approved Collection

1. USCIS Form I–912

Overview of information collection:

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for Fee Waiver.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–912; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the data collected on this form to verify that the applicant is unable to pay for the immigration benefit being requested. USCIS will consider waiving a fee for an application or petition when the applicant or petitioner clearly demonstrates he or she is eligible based on 8 CFR 106.3. Form I–912 standardizes the collection and analysis of statements and supporting documentation provided by the applicant with the fee waiver request. Form I–912 also streamlines and expedites USCIS' approval or rejection of the fee waiver request by clearly laying out the most salient data and evidence necessary for the determination of inability to pay. Officers evaluate all information and evidence supplied in support of a fee waiver request when making a final determination. Each case is unique and is considered on its own merits. If the fee waiver is granted, the application will be processed. If the fee waiver is not granted, USCIS will notify the applicant and instruct him or her to file a new application with the appropriate fee.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–912 (paper) is 380,181 and the estimated hour burden per response is 1.095 hours; the estimated total number of respondents for the information collection Form I–912 (PDFi) is 65,742 and the estimated hour burden per response is 1 hour; the estimated total number of respondents for the information collection non-form request for fee waiver (paper) is 7,470 and the estimated hour burden per response is 1.095 hours; the estimated total number of respondents for the information collection non-form request for fee waiver (PDFi) is 930 and the estimated hour burden per response is 1 hour; and the estimated total number of respondents for the information collection 8 CFR 103.7(d) Director's exception request is 128 and the estimated hour burden per response is 1.095 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 491,290 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $1,453,691.

2. USCIS Form N–336

DHS and USCIS invite the general public and other Federal agencies to comment on the impact to the proposed collection of information. In accordance with the PRA, the information collection notice is published in the **Federal Register** to obtain comments regarding the proposed edits to the information collection instrument.

Comments are encouraged and will be accepted for 60 days from the publication date of the proposed rule. All submissions received must include the OMB Control Number 1615–0050 in the body of the letter and the agency name. Comments on this information collection should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, for example, permitting electronic submission of responses.

Overview of information collection:

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for a Hearing on a Decision in Naturalization Proceedings Under Section 336.

(3) *Agency form number, if any, and the applicable component of DHS sponsoring the collection:* N–336; USCIS.

3. USCIS Form N–400

DHS and USCIS invite the general public and other Federal agencies to comment on the impact to the proposed collection of information. In accordance with the PRA, the information collection notice is published in the **Federal Register** to obtain comments regarding the proposed edits to the information collection instrument.

Comments are encouraged and will be accepted for 60 days from the publication date of the proposed rule. All submissions received must include the OMB Control Number 1615–0052 in the body of the letter and the agency name. Comments on this information collection should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, for example, permitting electronic submission of responses.

Overview of information collection:

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Naturalization.

(3) *Agency form number, if any, and the applicable component of DHS sponsoring the collection:* N–400; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form N–400, Application for Naturalization, allows USCIS to fulfill its mission of fairly adjudicating naturalization applications and only naturalizing statutorily eligible individuals. Naturalization is the process by which U.S. citizenship is granted to an alien after fulfilling the requirements established by Congress in the Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form N–400 (paper filed) is 454,850 and the estimated hour burden per response is 8.547 hours; the estimated total number of respondents for the information collection Form N–400 (online filed) is 454,850 and the estimated hour burden per response is 3.92 hours; the estimated total number of respondents for the information collection biometrics submission is 909,700 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 6,734,964 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $421,645,950.

List of Subjects in 8 CFR Part 106

Citizenship and naturalization, Fees, Immigration.

Accordingly, for the reasons set forth in the preamble, DHS proposes to amend chapter I of title 8 of the Code of Federal Regulations as follows:

PART 106—USCIS FEE SCHEDULE

■ 1. The authority citation for part 106 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1254a, 1254b, 1304, 1356; Pub. L. 107–609; 48 U.S.C. 1806; Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 101 note); Pub. L. 115–218, 132 Stat. 1547; Pub. L. 116–159, 134 Stat. 709.

■ 2. Amend § 106.2 by:

■ a. Revising paragraph (b)(2); and

■ b. Revising paragraph (b)(3).

The amendments read as follows:

§ 106.2 Fees.

* * * * *

(b) * * *

(2) *Request for a Hearing on a Decision in Naturalization Proceedings Under Section 336, Form N–336.* To request a hearing before an immigration officer on the denial of Form N–400, Application for Naturalization. $1,475. There is no fee for an applicant who has filed an Application for Naturalization under section 328 or 329 of the Act with respect to military service and whose application has been denied.

(3) *Application for Naturalization, Form N–400.* To apply for U.S. citizenship. $1,330. No fee is charged an applicant who meets the requirements of section 328 or 329 of the Act with respect to military service.

* * * * *

§ 106.3 [Amended]

■ 3. Amend § 106.3 by:

■ a. Removing paragraphs (a)(3)(i)(H) and (I); and

■ b. Redesignating paragraphs (a)(3)(i)(J) through (M) as paragraphs (a)(3)(i)(H) through (K).

Markwayne Mullin,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2026–12542 Filed 6–22–26; 8:45 am]

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Part III

Office of Management and Budget

Office of Federal Procurement Policy

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 1, 2, 4, Et al.

Federal Acquisition Regulation: Revolutionary Federal Acquisition Regulation Overhaul Parts 1, 2, 4, 33, 39, 40, and 53; Proposed Rule

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 4, 33, 39, 40, 52, and 53

[FAR Case 2026–001, Docket No. FAR–2026–0001, Sequence No. 1]

RIN 9000–AO86

Federal Acquisition Regulation: Revolutionary Federal Acquisition Regulation Overhaul Parts 1, 2, 4, 33, 39, 40, and 53

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB); Department of Defense (DoD); General Services Administration (GSA); and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: OFPP, DoD, GSA, and NASA (collectively referred to as the Federal Acquisition Regulatory Council or FAR Council) are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 14275, Restoring Common Sense to Federal Procurement. The E.O. directs the elimination of excessive acquisition regulations to stop the inefficient use of American taxpayer dollars. The FAR Council is issuing twelve proposed rules that collectively will streamline the FAR in its entirety. This rule proposes revisions to FAR parts 1, 2, 4, 33, 39, 40, 52, and 53.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before July 23, 2026, to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2026–001 to the Federal eRulemaking portal at *https://www.regulations.gov.* Follow the instructions for sending comments.

Instructions: Please submit comments only and cite ''FAR Case 2026–001'' in all correspondence related to this case. Include your name, company name (if any), and ''FAR Case 2026–001'' on any attached document. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. Public comments may be submitted as an individual, as an organization, or anonymously (see frequently asked questions at *https://www.regulations.gov/faq*). To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov/FAR-2026-001.*

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact *FARpolicy@gsa.gov* or call 202–969–4075 and cite ''FAR Case 2026–001.'' For information pertaining to status, publication schedules, or alternate instructions for submitting comments if *https://www.regulations.gov* cannot be used, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite ''FAR Case 2026–001.''

SUPPLEMENTARY INFORMATION:

I. Background

E.O. 14275, Restoring Common Sense to Federal Procurement (April 15, 2025), resets the foundation for Federal buying by requiring the FAR Council to produce a streamlined FAR that is simpler, clearer, and structured for speed. According to the E.O., the FAR has evolved from its original purpose (*i.e.,* to establish uniform procedures across executive departments and agencies), into an excessive and overcomplicated regulatory framework and bureaucracy. While meant to ''deliver, on a timely basis, the best value product or service to the customer, while maintaining the public's trust and fulfilling public policy objectives,'' the FAR has become an expensive barrier to achieving those objectives. As a result, the E.O. directed the FAR Council and OMB to create an agile, effective, and efficient regulation that contains only provisions required by statute or essential to sound procurement.

To implement E.O. 14275, OMB issued Memorandum M–25–26, Overhauling the Federal Acquisition Regulation, which announced the ''Revolutionary FAR Overhaul'' (RFO) and created a roadmap for producing simpler regulations aligned to statute, rewritten in plain language, and including nonstatutory requirements that are necessary to conducting a sound procurement. The memorandum described a new streamlined vision for the FAR, to be maintained alongside nonregulatory governmentwide guidance to provide a common-sense authoritative foundation for nimble response and delivery of mission capability.

This new vision represents a paradigm shift where over-engineered regulations designed for paperwork and compliance are replaced with streamlined regulations focused on core stewardship principles and nonregulatory guidance that will be used in concert with the streamlined FAR focused on proven buying strategies, critical thinking, market awareness (including to expand awareness of goods, products, and materials offered in the United States), and risk literacy to enhance workforce problem-solving. The significant reduction of unnecessary mandates is intended to clarify and reinforce the contracting officer's discretion to determine the best way to apply policies and practices. The newly established, nonregulatory guidance, which has been inspired by acquisition innovation advocates, category managers, other experienced practitioners, and many years of feedback from the contractor community—is expected to facilitate contracting officers' use of their discretion more efficiently and effectively to make smarter buying decisions.

OMB Memorandum M–25–26 also directed the FAR Council to complete the regulatory overhaul in two phases, each with robust public input. The FAR Council conducted its phase one effort in fiscal year 2025 by issuing model class deviations to replace each part in the FAR until such time as formal rulemaking occurred. This proposed rule is one of a series that constitute the FAR Council's phase two effort to obtain public comment through formal rulemaking.

II. Discussion and Analysis

A summary of proposed changes to existing parts 1, 2, 4, 33, 39, 40, 52 and 53 are as follows:

A. General

1. General RFO updates. This proposed rule generally reorganizes the FAR parts into phases of acquisition and simplifies the text into plain language, where possible. The plain language efforts include changes to active voice, edits to improve readability, and reorganization to present information more logically. None of the plain language edits are intended to change existing FAR requirements. The rewriting of the entire FAR also required edits to harmonize the changes being proposed such as updating the cross-

references. This aligns with the Federal plain language guidelines as directed by the Plain Writing Act of 2010 (5 U.S.C. 301 note).

2. Standardization of prescriptions. This rule proposes revisions to standardize prescriptions for provisions and clauses. These changes are intended to provide better clarity around the applicability of provisions and clauses such as whether they apply to commercial products and services.

3. Use of ''must'' instead of ''shall''. Additional revisions are being proposed throughout the FAR text and FAR provisions and clauses to replace the use of the term ''shall'' with ''must'' or ''will,'' as appropriate, to impose requirements.

4. Non-statutory requirements. Section 4 of the E.O. required amendments to the FAR to ensure it contains only provisions that are required by statute or that are otherwise necessary to support simplicity and usability, strengthen the efficacy of the procurement system, or protect economic or national security. The FAR Council reviewed all non-statutory requirements to determine if they are still relevant and essential to sound procurement in today's contracting environment based on the criteria from section 4 of the E.O. The proposed rule retains non-statutory requirements that further one or more of the elements of sound procurements, including those requirements that serve as guardrails to protecting taxpayer interests and promote taxpayer confidence in the procurement system. Non-statutory requirements that were beneficial but not essential were retained in the non-regulatory guidance documents. Other non-statutory requirements that did not meet these standards were removed. The Council considered the extent to which regulation is the most efficient means for capturing the benefit of the policy. For example, most ''how to'' requirements were found to be more appropriately suited for non-regulatory coverage which better enables a contracting officer to use discretion in determining the application of a strategy to a given situation and limits the risk of overapplication, which can create wasteful burden on the contracting parties.

As part of the RFO, the FAR Council has created a number of non-regulatory resources, including the FAR Companion, which provides insight from experienced practitioners across the government on using more streamlined practices and processes. The migration of significant coverage to non-regulatory guidance is intended to ensure that the benefits of the policy are not outweighed by the compliance burden of a more rigidly written regulation that is prone to application in an overly broad manner. This approach was explained to the public in a set of ''frequently asked questions'' that were posted on the Revolutionary FAR Overhaul homepage shortly after the initiative was launched.

B. Summary of Changes to FAR Part 1

1. Guiding principles

Proposed revisions to the guiding principles in FAR 1.102 prioritize a ''mission first'' approach, positioning it as the paramount principle of the Federal Acquisition Regulations System. This ensures that all acquisition activities are directly aligned with achieving the agency's overarching objectives and serving the public interest.

The proposed changes also elevate the importance of fiscal responsibility by prioritizing the best use of taxpayer dollars, which includes price preferences and incentives for domestically sourced goods and services. This principle underscores a commitment to ''Buy American'' laws, efficiency, cost-effectiveness, and accountability in all spending. Concurrently, the proposed changes recognize that timely acquisition and delivery are often essential for mission success.

The guiding principles retain a strong emphasis on satisfying the customer, ensuring that the needs and expectations of the end-users are met with high-quality products and services. It continues to encourage the maximization of commercial products and commercial services. It also continues to promote competition, recognizing it as a vital mechanism for driving innovation, achieving better value, while prioritizing participation of domestic suppliers to foster a resilient and competitive American industrial base. Finally, it encourages innovation, urging agencies to explore and adopt new technologies, processes, and approaches that can lead to more efficient, effective, and transformative outcomes in government contracting.

2. Forms

i. Relocation of FAR part 53, Forms. This rule proposes to relocate all information pertaining to forms from its current placement in FAR part 53, Forms to FAR part 1, Federal Acquisition Regulations System, specifically to the new proposed FAR subpart 1.6, Forms. This strategic move is designed to further enhance the consolidation of related information, by creating a more deliberate, logical, and user-friendly framework that fosters greater efficiency.

ii. Summary of changes to forms. This proposed rule directs the acquisition community to a new centralized website (see *https://acquisition.gov/FARforms*) as the authoritative repository for all acquisition related forms. As a result, to update the list of forms, the FAR no longer needs to be amended through the formal rulemaking process. This reduces the administrative burden on the FAR Council and increases the Government's ability to quickly keep the list of forms up-to-date. The ''Forms List'' referenced in FAR 1.602(b) now performs the prescriptive function previously handled throughout FAR subparts 53.2 and 53.3, shifting the FAR's role from a static, self-contained text to a dynamic system that points to live, authoritative resources. The proposed change simplifies user access to the forms and forms-related information. The notice and comment process for substantive changes to forms prescribed by the FAR remains unchanged.

3. Federal Acquisition Regulatory Council (FAR Council)

This rule proposes to update the FAR Council consistent with 41 U.S.C. chapter 13, to add the Administrator for Federal Procurement Policy.

4. Regulatory Sunset

Consistent with section 6 of E.O. 14275, this rule proposes to add a new regulatory sunset requirement to the FAR. A regulatory sunset establishes a process to review sections, provisions and clauses in the FAR, and identify those policies that are no longer required or are outdated and can be removed from regulation through rulemaking. This policy serves as a built-in mechanism to prevent the accumulation of outdated or unnecessary regulations and to encourage regular review of the regulatory framework.

To facilitate the implementation of the regulatory sunset, the FAR Council anticipates standardizing this process by issuing a future proposed rule at regular timed increments requesting public input on policies that should be reviewed and considered for sunset. This process aims to ensure public input helps drive the determination of what should be sunset.

Sections, provisions and clauses do not expire until removed from the Code of Federal Regulations through rulemaking unless an expiration date is otherwise noted inside a clause. The FAR Council may indicate through rulemaking the Government's intent not

to enforce a clause after a stated date. (see FAR 1.109(b)).

5. Class Deviations From the FAR

This proposed rule revises the definition of individual deviation to correct an ambiguity and to make it clear that a solicitation with multiple awards needs a class deviation and not an individual deviation. Additional updates are being proposed to streamline the internal Government process where agencies request and receive approval for deviations from the FAR.

6. Specific Streamlining Changes

This rule proposes to make several streamlining changes to FAR part 1. While the requirements for OMB approval of information collections and recordkeeping requirements remain, to enhance efficiency and accessibility, the table listing OMB approved information collections by applicable FAR part is now available at *https://www.acquisition.gov/FAR-PRA* (see FAR 1.105).

Similarly streamlined is the relocation of the table listing the renaming of public laws as a result of the positive law codification of Titles 40 and 41 of the United States Code at FAR 1.110, which is now available at *https://www.acquisition.gov/renamingpubliclaws*.

This rule proposes to remove internal operating procedures related to the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council and relocate it on *www.acquisition.gov,* where similar information is already shared.

This rule proposes to consolidate disparate policies related to the contracting officer's representative (COR) into FAR 1.404, Contracting officer's representative. This consolidation helps to more clearly identify requirements for the designation of the COR, when a COR must be designated, the qualifications required to be a COR, and COR responsibilities.

7. The Removal of Acquisition 360 Voluntary Survey Provision

This rule proposes to reduce a substantial amount of nonstatutory text in FAR part 1 including the removal of FAR provision 52.201–1, Acquisition 360: Voluntary Survey. The requirement to implement this survey is based on OFPP Memorandum Acquisition 360—Improving the Acquisition Process through Timely Feedback from External and Internal Stakeholders, dated March 18, 2015. The voluntary use of the survey has been relocated to the FAR companion guide.

8. Relocation of Statutory Text

This rule proposes to relocate FAR 1.102–2(a)(4) to paragraph (c) of FAR 7.201, Market research requirements, because the requirements address communications with industry. The text being relocated is based on requirements from Section 887 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016 (Pub. L. 114–92).

9. Retention of Policy and Procedures for Sound Procurement

This rule proposes to maintain some policy that is nonstatutory because the policy is necessary for maintaining, publishing, or providing direction for the operation of the FAR system. This includes policy for the publication and code arrangement proposed to be moved from FAR 1.105–1 to FAR 1.104, which provides instructions on where the FAR is published in the CFR, how the FAR is numbered and who is responsible for publishing the FAR.

Additionally, FAR conventions are proposed to be moved from FAR 1.108 to FAR 1.107. This section consolidates policies from FAR part 1 that address the usage of definitions, the ability to delegate authority within the FAR, specific dollar thresholds, applying FAR changes to solicitations and contracts, how statutes, executive orders, and other policies are cited in the FAR, and clarifies who the FAR is directing to take action.

This rule also proposes to consolidate and maintain other policies and procedures for—

(1) Authorizing deviations from the FAR as proposed at FAR subpart 1.3,

(2) Authority and responsibilities of the contracting officer as proposed at FAR 1.402;

(3) Designating and responsibilities of the COR as proposed at FAR 1.404;

(4) Ratification of unauthorized commitments as proposed at FAR 1.405; and

(5) Determination and findings proposed at FAR subpart 1.5.

C. Summary of Changes to FAR Part 2

1. Deletions, Revisions, Additions and Relocation of Terms and Definitions

i. Deletion of Terms and Definitions

This rule proposes removing several words and terms from FAR 2.101 that are either no longer expected to be referenced in the FAR or are now defined elsewhere. The words or terms being proposed for deletion include:

- *Energy efficient standby power devices*
- *Environmentally preferable*
- *Federally controlled information system*
- *F.o.b. . ..(for other types of F.o.b., see 47.303)*
- *Projected average loss*
- *Registered in the System for Award Management (SAM)*
- *Shall*
- *Single, Governmentwide point of entry*
- *Sustainable acquisition*
- *Sustainable products and services*
- *Virgin material*
- *Waste reduction*

ii. Revisions to Existing Definitions

This rule proposes to revise the meaning of words and terms used in FAR 2.101. These revisions are a result of changes being made to the FAR in this revolutionary FAR overhaul (RFO) rule, FAR case 2026–001, or in another RFO rule FAR case. Discussion related to the changes to these terms can be found in the applicable RFO rule FAR case. The proposed rule revises the following words or terms.

- *Commercial computer software*
- *Commercial product*
- *Commercial service*
- *Commercially available off-the-shelf (COTS) item*
- *Computer software*
- *Governmentwide point of entry (GPE)*
- *Major system*
- *Micro-purchase*
- *Must*
- *Offer*
- *Offeror*
- *Reverse auction*
- *Service-disabled veteran-owned small business (SDVOSB) concern eligible under the SDVOSB Program*
- *Simplified acquisition procedures*
- *System for Award Management (SAM)*
- *Technical data*

iii. Incorporation of New Terms and Definitions

This rule proposes certain new words or terms along with their meaning to be added to FAR 2.101. These changes are a result of changes being made to the FAR in this RFO rule FAR case 2026–001, or in another RFO rule FAR case. The words or terms and their meanings are being added to FAR 2.101 because they will be used in more than one FAR part. The following words or terms are being added in FAR part 2.101:

- Controlled unclassified information (CUI)
- Federal information system (FIS)
- Information system
- SAM Contract Awards Management

iv. Relocation of Terms and Definitions

This rule proposes certain words or terms along with their meaning to be moved from one FAR part to another FAR part. This change aligns with FAR drafting convention which provides that if a term is used in more than one FAR part it should be defined in FAR subpart 2.101, see also FAR 1.107(a). If a word or term is used only once then it resides in the applicable FAR part, subpart or section where it is used. The following is a list of words and terms that are being proposed to be moved to a new location within the FAR.

Term	FAR Part location	Proposed new FAR part location
Activity Address Code	FAR 2.101	FAR 4.001.
Design-to-cost	FAR 2.101	FAR 7.101.
Designated operational area	FAR 2.101	FAR 25.601–2.
Determination and findings	FAR 1.701	FAR 2.101.
Disaster Response Registry	FAR 2.101	FAR 26.101.
Energy-efficient product	FAR 2.101	FAR 23.101.
Energy savings performance contract	FAR 2.101	FAR 23.2.
Governmentwide commercial purchase card	FAR 13.001	FAR 2.101.
Historically black college or university	FAR 2.101	FAR 26.401.
Make-or-buy program	FAR 2.101	FAR 15.104.
Minority Institution	FAR 2.101	FAR 26.401.
Overtime premium	FAR 2.101	FAR 22.101.
Pollution prevention	FAR 2.101	FAR 23.401.
Qualification requirement	FAR 2.101	FAR 9.201.
Qualified products list (QPL)	FAR 2.101	FAR 9.201.
State and local taxes	FAR 2.101	FAR 29.301.
Supporting a diplomatic or consular mission	FAR 2.101	FAR 25.601–2.
Value engineering	FAR 2.101	FAR 42.1401.
Value engineering change proposal (VECP)	FAR 2.101	FAR 42.1401.

2. Other Updates to Definitions

i. Proposed changes to FAR part 2 include conforming changes to align with changes made in individual FAR parts including updating FAR citations used within a definition and to add an acronym to a term, if applicable. Additional changes to revise, add, remove or relocate definitions may be necessary to make conforming changes based on changes to other RFO rules.

ii. This rule proposes to change the meaning of the acronym ''MAC'' from ''multi-agency contract'' to mean ''multiple-award contract''. This change aligns with the common usage of the acronym within the procurement community.

3. Acronym List

This rule proposes to add a new subpart 2.102, Acronyms, and abbreviations. The list of acronyms and abbreviations will be located at *https://www.acquisition.gov/far-acronyms.* This resource will enhance readability and establish a centralized repository for identifying acronyms and abbreviations used within the FAR. Acronyms and abbreviations will continue to be established once in each FAR part and in provisions and clauses.

4. Threshold Adjustment

This rule proposes to adjust the threshold for defining a ''major system''. Section 1804 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2026 (Pub. L. 119–60) changes the Title 10 thresholds for ''major system''. The NDAA language addresses threshold changes for both civilian agencies and DoD. However, the NDAA does not appear to make the same changes to Title 41. Consequently, the statutory thresholds described in 10 U.S.C. 3041 and 41 U.S.C. 109 are different. This rule proposes to incorporate the thresholds as described in section 1804 of the NDAA for both civilian agencies and DoD because of likely congressional intent to rely on Title 10 for the applicable thresholds.

D. Summary of Changes to FAR Part 4

1. Relocation of Requirements to FAR Part 40

This rule proposes to relocate security requirements, prohibitions and exclusions and their related provisions and clauses from FAR part 4 to FAR part 40. For more details, refer to paragraph G of this Discussion and Analysis section and the table under paragraph 4.e of section VII. of this preamble.

2. Retained Part 4 Coverage

The guidance affecting the standardization of acquisition data was retained as essential to sound procurement. As part of its ongoing systems modernization effort, GSA has retired *FPDS.gov* and transitioned to *SAM.gov.* All contract award data that was previously available in *FPDS.gov* is now available in SAM Contract Awards Management. Material regarding contents of contract files and other internal Government procedures were relocated to the FAR Companion or removed to allow agencies maximum flexibility to use technology and other tools as they see fit.

3. Solicitation Provisions and Contract Clauses

There are no proposed changes to the provision at FAR 52.204–5, Women-Owned Business (Other Than Small Business), and the clause at FAR 52.204–19, Incorporation by Reference of Representations and Certifications. A minor change is proposed to the clause at FAR 52.204–9, Personal Identity Verification of Contractor Personnel, to standardize the subcontract paragraph.

Proposed changes to the clauses at FAR 52.204–10, Reporting Executive Compensation; 52.204–14, Service Contract Reporting Requirements; and 52.204–15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts, exclude applicability to contracts for commercial acquisitions.

Proposed changes to FAR part 4 include streamlining the registration process in SAM by only having entity level representations and certifications in SAM. Representations and certifications that are procurement-specific (*e.g.,* the answer to the representation or certification might be different for each procurement of different products or services, rather than being ''entity-level'' such as a question about the offeror's status) or completed by submission of an offer will be removed from SAM and used in solicitations as prescribed in the FAR. Accordingly, the provision at FAR 52.204–8, Annual Representations and Certifications, will be removed. The

FAR Council specifically invites feedback on potential impacts and changes in burden resulting from this substantial change in business process.

The proposed changes to FAR part 4 contemplate two clear paths for collecting information from entities interested in obtaining Government contracts. If SAM registration is required, the revised solicitation provision at FAR 52.204–7, proposed to be titled ''System for Award Management-Registration,'' and the revised contract clause at FAR 52.204–13, System for Award Management-Maintenance, consolidate entity level information (already being collected in SAM) from five provisions and its required maintenance from 2 clauses, respectively. If SAM registration is not required, the new solicitation provision at FAR 52.204–XX, Offeror Identification, and the new contract clause at FAR 52.204–YY, Contractor Identification, consolidate entity level information from five provisions and its required maintenance from 2 clauses, respectively.

This rule proposes to remove the FAR part 4 provisions and clauses described in the following table:

FAR provision/clause	Rationale for proposed removal
52.204–1, Approval of Contract	Obsolete content.
52.204–3, Taxpayer Identification	Consolidated under FAR 52.204–7(b)(2) or 52.204–XX(c).
52.204–6, Unique Entity Identifier	Consolidated under FAR 52.204–7(b)(1) or 52.204–XX(b).
52.204–8, Annual Representations and Certifications	Only entity level representations and certifications will remain in SAM, see FAR 4.208(c)(1)(ii) or 52.204–7(c).
52.204–12, Unique Entity Identifier Maintenance	Consolidated under FAR 52.204–13(e) or 52.204–YY(b).
52.204–16, Commercial and Government Entity Code Reporting	Consolidated under FAR 52.204–7(b)(3) or 52.204–XX(d)(1).
52.204–17, Ownership or Control of Offeror	Consolidated under FAR 52.204–7(b)(3) or 52.204–XX(d)(2).
52.204–18, Commercial and Government Entity Code Maintenance	Consolidated under FAR 52.204–13(f) or 52.204–YY(c).
52.204–20, Predecessor of Offeror	Consolidated under FAR 52.204–7(b)(3) or 52.204–XX(d)(2).
52.204–22, Alternative Line Item Proposal	Obsolete content.

E. Summary of Changes to FAR Part 33

1. Purpose Statement

This rule proposes to add FAR 33.100, Purpose of the bid protest system. The purpose statement sets forth objectives and expectations for the bid protest system. The primary goals of the bid protest process are to ensure efficient resolution of protests, minimize disruption to contract award, correct procurement errors quickly, and safeguard the rights of interested parties to an independent review of the alleged violations. The process is also intended to deter abuse and promote integrity in the FAR system. The protest process is not meant to serve as an alternate method for offerors to obtain post-award explanations, or debriefings, which can be addressed through other established procedures in the FAR (*e.g.,* FAR part 15).

2. Agency Protest Changes

This rule proposes to require contracting officers to report protests to the head of the contracting activity, see FAR 33.104–4(a)(4)(ii). This language was added as a step towards increasing confidence in agency protests, increasing the ability to capture data at the agency level on protests filed with contracting officers, and for agency management to respond to procurement issues raised in protests.

For protesters that elect an independent review by an official at a level above the contracting officer, this rule proposes to allow the disclosure of a redacted copy of the agency's final technical evaluation of the protester's proposal and a redacted copy of the source selection decision, see FAR 33.104–4(a)(5)(ii)(B). The disclosure of this information is available for any type of procurement (*e.g.,* FAR part 8, 12, 15). Additionally, this rule proposes to allow the protester to raise additional protest grounds, within a reasonable time set by the independent review official. These changes are intended to provide fuller disclosure, to build confidence in agency protests, and resolve more protests at the agency level (see FAR 33.104–4(a)(5)(ii)(C)).

3. Government Accountability Office Protests

This rule proposes to significantly streamline the FAR to remove regulatory text that repeats or summarizes Government Accountability Office (GAO) protest regulations, and instead points the contracting officer to the applicable GAO regulations at 4 CFR part 21. These changes make this FAR part more concise and easier to navigate for contracting officers while minimizing the risk of discrepancies between the different regulations and reducing the need for additional rulemaking.

4. Changes to FAR 52.233–1, Disputes

This rule contemplates revising FAR 52.233–1, Disputes, by removing paragraph (i) and replacing it with paragraph (i) in Alternate I. It is believed that the language in paragraph (i) was based on the state of law as it existed prior to the enactment of the Contract Disputes Act, when agencies could only require performance to continue if the claim at issue was arising under the contract. After the enactment of the Contract Disputes Act, agencies were then able to require performance to continue regardless of whether the claim arises under or related to the contract.

Public comments are particularly invited on whether the removal of paragraph (i) and replacement of paragraph (i) in Alternate I would have any unintended consequences.

F. Summary of Changes to FAR Part 39

1. Deletion of FAR 39.105, Privacy, and 52.239–1, Privacy or Security Safeguards

This rule proposes to remove the requirements at FAR 39.105, Privacy and FAR clause 52.239–1, Privacy or security safeguards since the requirements are inconsistently used and are no longer needed to safeguard privacy or security. The FAR contains other security controls that restrict the publication or disclosure regarding the details of any safeguards that are Federal contract information (see FAR 52.240–5, Covered Federal Information). Other controls exist that restrict disclosure of certain information and provide safeguards for Federal information systems (*e.g.,* a system security plan is protected from disclosure under National Institute of Standards and Technology (NIST) control PM–1: Information Security Program Plan, and a supply chain risk management plan is protected from disclosure under NIST control SR–2: Supply Chain Risk Management Plan).

Further, FAR 52.239–1 does not provide sufficient specificity regarding what Government access would be

allowed, under what conditions, and how such information would be protected. Similarly, there is insufficient specificity regarding the scope and procedures for both the Government and contractor to share new or unanticipated threats or hazards.

2. Information and Communication Technology

This rule proposes to amend the title of FAR part 39 and the text of FAR 39.001, Applicability, to cover information and communication technology (ICT). The purpose of this change is to establish the scope of this FAR part which will set the framework for future rulemaking that will address emerging technologies. Information technology is not broad enough to cover areas that would be included within part 39 including: operational technology, emerging technology, and information systems.

3. NICE Workforce Framework for Cybersecurity (NICE Framework)

This rule proposes to consolidate FAR case 2019–014, Strengthening America's Cybersecurity Workforce which was published as a proposed rule at 90 FR 297 on January 3, 2025, into this FAR case.

Eight respondents submitted comments on the proposed rule. Several respondents voiced support for standardizing cybersecurity workforce requirements across the Federal Government as it provides consistent standards for contractors and strengthens the cybersecurity workforce. Other comments supported defining the term ''cybersecurity'' and noted the clarity that this definition provides.

One respondent noted that the proposed updates to FAR 7.105 and FAR 12.202 were valuable but that these requirements may slow down the acquisition process. Similarly, the respondent noted that requiring agency documents to align with the NICE Framework ensures consistency but cautioned about the risk of updating too frequently would be burdensome on the workforce. This proposed rule does not incorporate changes related to FAR 7.105 and FAR 12.202. This proposed rule aligns with the streamlining goals of the RFO and all revisions are proposed to be implemented in FAR part 39.

4. Position, Navigation, and Timing Services

This rule proposes to consolidate FAR Case 2024–005, Positioning, Navigation, and Timing Services to implement a policy for acquisition planners to consult the *Federal Positioning, Navigation and Timing Services Acquisitions Guidance,* to ensure responsible use of Positioning, Navigation and Timing (PNT) services, pursuant to section 4(e) of E.O. 13905, *Strengthening National Resilience Through Responsible Use of Positioning, Navigation, and Timing Services,* dated February 12, 2020. The E.O. was signed by the President on February 12, 2020, and published in the **Federal Register** at 85 FR 9359 on February 18, 2020.

i. Background

The E.O. included numerous tasks that were to be accomplished before the FAR Council could proceed with amending the FAR, the last of which was the Department of Homeland Security's draft of contractual language in accordance with section 4(d) of the E.O., which was provided in May 2024.

Consistent with section 4(e) of E.O. 13905, this rule proposes to amend the FAR to implement a requirement for acquisition planners to consult the *Federal PNT Services Acquisitions Guidance* when developing requirements for products, systems, or services dependent on PNT services.

The E.O. seeks to help organizations protect against the disruption or manipulation of PNT services, particularly those organizations whose use of PNT services is vital to the functioning of U.S. critical infrastructure. The E.O. defines PNT services as ''any system, network, or capability that provides a reference to calculate or augment the calculation of longitude, latitude, altitude, or transmission of time or frequency data, or any combination thereof.'' When PNT is used in combination with satellites and other information (*e.g.,* weather or traffic data) to form a navigation system with global coverage, the result is called a Global Navigation Satellite System (GNSS), with the most recognizable service example being the Global Positioning System (GPS). While PNT encompasses so much more than navigational functions, GPS is a major component.

PNT services have become integral to the reliable and efficient functioning of critical technology and infrastructure, including the electrical power grid, communications infrastructure and mobile devices, all modes of transportation, precision agriculture, weather forecasting, and emergency response. Given the extensive reliance upon PNT services, disruption or manipulation of these services may adversely affect the national and economic security of the United States and Federal agencies must take such risks into consideration when planning for the acquisition of products, systems, and services that integrate or utilize such services.

ii. PNT Profiles

To better enable the responsible use of PNT services, the E.O., in section 4(a), directed the Department of Commerce to create PNT profiles to help organizations (1) identify systems, networks, and assets dependent on PNT; (2) identify appropriate PNT sources for such systems; (3) detect disruption and manipulation of PNT services; and (4) manage the risks to these systems. Accordingly, NIST, under the Department of Commerce, produced NIST Internal Report (IR) 8323r1, Foundational PNT Profile: Applying the Cybersecurity Framework for the Responsible Use of Positioning, Navigation, and Timing (PNT) Services, in January 2023.

In this foundational PNT profile, NIST mapped their cybersecurity framework functions of identify, protect, detect, respond, and recover to elements of responsible use of PNT services described in the E.O. (*i.e.,* identify PNT dependencies, identify appropriate PNT services, detect disruption and manipulation to PNT services, and manage risks to products and services dependent on PNT). This PNT profile provides a robust and flexible framework for PNT users to manage risks. The PNT profile is voluntary and intentionally generalized to enable the development of subsequent sector-specific profiles or guidance.

iii. PNT Acquisition Guidance

The Department of Homeland Security (DHS) was tasked in section 4(d) of the E.O. with the development of contractual language regarding PNT services for insertion in relevant Federal contracts. The Cybersecurity and Infrastructure Security Agency (CISA), a component of DHS, in conjunction with the Federal PNT Contract Language Development Working Group, developed guidance to assist agencies when procuring PNT-dependent products, systems, or services.

CISA's Federal PNT Services Acquisitions Guidance (Version 1.0), dated February 2024, leverages the PNT profiles established in NIST's IR 8323r1 to further aid PNT program managers, acquisition professionals, and contractors in the assessment of their PNT dependencies. The guidance also establishes recommendations for appropriate levels of resiliency based upon the operational needs of the proposed product, system, or service.

iv. Scope Considerations

When considering the scope of this proposed rule and the appropriate language that would prompt relevant acquisition planners to consult the *Federal PNT Services Acquisitions Guidance,* the FAR Council harmonized potentially disparate terminology in the E.O. and utilized the language in section 4(a) of the E.O., ''dependent on PNT services.''

The *Federal PNT Services Acquisitions Guidance* provides robust guidance to acquisition planners, and the effort entailed to understand and apply the guidance to a specific effort is complex and requires subject matter expertise. To apply this guidance to all products and services ''that integrate or use'' PNT services could be interpreted broadly. For example, a contracting officer acquiring a dozen office chairs may recognize the commercial carrier delivering the office chairs on behalf of the vendor utilizes a mapping service that uses GPS to assist in navigation to the office building. In this scenario, a contracting officer might consider whether they should work with the requiring activity to conduct a detailed PNT dependency and vulnerability analysis which requires significant cybersecurity expertise, turning what should be a simple commercial transaction for furniture into an unexpectedly burdensome exercise. This type of application would be disproportionate and at odds with the guiding principles of the FAR.

Conversely, a contracting officer acquiring a high-precision weather forecasting device or service that provides critical information for essential safety functions could expect the requiring activity to consider PNT services implications in the requirements documents. Federal procurement needs are extremely varied, and exercising sound business judgment is imperative in meeting customer needs while fulfilling policy objectives.

This rule also proposes the use of ''as appropriate'' in the prompting to acquisition planners to provide space for exercising sound business judgment in the best interest of the Government.

v. FAR Part 39 Updates

FAR 39.105, Positioning, navigation, and timing (PNT) services, is added to direct agencies to use the *Federal Positioning, Navigation, and Timing Services Acquisition Guidance* when acquiring products or services dependent on PNT services. The term ''positioning, navigation, and timing (PNT) services'' is being established under FAR 39.002, Definitions.

G. Summary of Changes to FAR Part 40

This rule proposes revisions to FAR part 40 to merge and consolidate regulations found in multiple FAR parts and subparts into a single, logically organized part. The proposed changes streamline requirements; improve national security, create a single ''do not buy'' list; reduce and harmonize over a dozen different provisions and clauses related to security prohibitions and exclusions; add requirements for handling controlled unclassified information; and implement covered procurement actions.

The definition of unmanned aircraft system is being proposed to be updated to implement the American Security Drone Act of 2023; Unmanned Aircraft System List of Associated Elements interim rule and to include a reference to 41 CFR 201–1.101 for the list of associated elements to be identified by the Federal Acquisition Security Council (FASC).

1. Consolidation of Regulations

This proposed rule aims to consolidate the FAR cases listed in the following table:

FAR case No.	FAR case title	Rule type	FR citation	FR date
2017–016	Controlled Unclassified Information	Proposed	90 FR 4278	1/15/2025
2018–017	Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.	1st Interim	84 FR 40216	8/13/2019
		2nd Interim	84 FR 68314	12/13/2019
2019–009	Prohibition on Contracting with Entities Using Certain Telecommunications and Video Surveillance Services or Equipment.	1st Interim	85 FR 42665	7/14/2020
		2nd Interim	85 FR 53126	8/27/2020
2019–018	Federal Acquisition Supply Chain Security Act of 2018.	Proposed	Not published	N/A
2020–011	Implementation of FASCSA Orders	Interim	88 FR 69503	10/5/2023
2023–010	Prohibition on a ByteDance Covered Application	Interim	88 FR 36430	6/2/2023
2024–002	Prohibition on Unmanned Aircraft Systems From Covered Foreign Entities.	Interim	89 FR 89464	11/12/2024

Public comments received on these rules have been reviewed and considered in the drafting of this proposed rule.

This rule proposes to reorganize FAR part 40 into three key subparts: Processing Supply Chain Risk Information; Security Prohibitions and Exclusions; and Safeguarding Information. The changes proposed streamline requirements by merging and consolidating existing content from FAR parts 4, 25, and 40, removing redundancies, and improving clarity. Proposed revisions also consolidate five separate provisions into one provision. Similarly, this proposed rule also consolidates seven separate clauses to one clause. Reorganizing the content and consolidating information allows contractors and the acquisition workforce to better understand how current prohibitions are related, reducing the burden on the Government workforce and contractors while improving national security.

2. Updates to Telecommunications and Video Surveillance Equipment Prohibition

The FAR Council issued two interim rules (see FAR cases 2018–017 and 2019–009) to implement sections 1(a)(A) and 1(a)(B) of Section 889 of the NDAA for FY 2018. Respondents submitted comments in response to these interim rules. Many commenters recommended clarifying, updating, or creating defined terms to aid with implementation. There were also multiple commenters who expressed concern with the burden the rules imposed on the public and Government. To address the public comments received and reduce burden on both the public and Government, this rule proposes to incorporate the following updates to the prohibition requirements from the interim rules:

i. Covered Telecommunications Equipment or Services Definition

Update the definition of ''covered telecommunications equipment or services'' to clarify what ''produced''

means within the context of this definition. See FAR 40.201 and FAR 52.240–3, Security Prohibitions and Exclusions.

ii. Critical Technology Definition

Update the definition of ''critical technology'' to a technology in whose absence a system cannot adequately operate or function. See FAR 52.240–3(a).

iii. New Definitions

Add new definitions for ''system,'' ''telecommunications equipment,'' ''telecommunications services,'' ''video surveillance equipment,'' and ''video surveillance services.'' See FAR 40.201 and FAR 52.240–3. These definitions align with the definition of telecommunications at Defense Federal Acquisition Regulation Supplement (DFARS) 239.7401.

iv. Prohibition Exceptions

Add clarity regarding the scope of the prohibition exceptions. See FAR 52.240–3(b)(3).

v. Scope of ''Use of Covered Telecommunications Equipment or Services'' Within Prohibition

To address questions regarding what activities are covered by the prohibition, this rule clarifies that the following activities are not individually considered use of covered telecommunications equipment or services: commercial sales, maintenance, testing services, warranty services, and employee's use of personal equipment. See FAR 52.240–3(d)(1).

3. Harmonization of Requirements

This proposed rule harmonizes requirements for security prohibitions and exclusions. Changes are proposed to align standards for reasonable inquiry, reporting time frame and report requirements.

Previously, some of the prohibitions did not include a reasonable inquiry standard that clarified what level of effort is required to determine if there are any prohibited products or services. Also, the prohibitions that had reasonable inquiry standards used slightly different language between the prohibitions. This created more uncertainty for offerors and contractors while adding liability risk for industry. Under this proposed rule, there would be just one reasonable inquiry standard across the prohibitions that clarifies that an offeror or contractor does not need to conduct an internal or third-party audit. Consistent application of the standard reduces liability risk for offerors and contractors by clarifying that third party audits are not required and due diligence does not require gathering information outside their possession. See FAR 52.240–2(c) through (g) and FAR 52.240–3(g) and (j)(2).

Another inconsistency across various security prohibitions and exclusions is the various disclosure and reporting requirements. This rule proposes to standardize the report and disclosure timeframe to 72 hours from discovery with just one required report. This change aligns with the 72 hours for incident reporting which is the reporting standard in the Cyber Incident Reporting for Critical Infrastructure Act of 2022 and the DoD CUI incident reporting requirements in DFARS 252.204–7012. Providing one standard timeframe for prohibitions and incident reporting simplifies reporting for offerors and contractors.

This proposed rule also harmonizes the disclosure and reporting elements required in each report. This reduces burden and simplifies compliance for offerors and contractors who will have to spend less time deciphering unique reporting requirements for each prohibition.

4. Covered Procurement Actions

This rule proposes to implement section 203 of the Federal Acquisition Supply Chain Security Act of 2018 (Title II of the SECURE Technology Act, Pub. L. 115–390, Dec. 21, 2018 (see 41 U.S.C. 4713)). This statute authorizes agencies to take agency specific exclusion actions called ''covered procurement actions.'' The specific exclusion actions allowed by the statute are defined in this rule as part of the definition of *covered procurement action.* The rule clarifies that agencies must establish procedures to ensure compliance with the requirements in 41 U.S.C. 4713, and that the use of this authority applies to a single covered procurement action or a class of covered procurement actions.

This rule proposes to add requirements within the consolidated provision at FAR 52.240–2 at paragraphs (b)(3) and (e) that would require an offeror to represent that they have conducted a reasonable inquiry, and that the offeror does not propose to provide or use in response to a solicitation any products or services that are prohibited by an applicable covered procurement action in effect on the date the solicitation was issued, except as waived by the solicitation, or as disclosed by the offeror.

This rule also proposes to add requirements to the consolidated clause at paragraph (f) in FAR 52.240–3. FAR 52.240–3(f) prohibits contractors from providing or using any products or services in performance of the contract that are prohibited by an applicable covered procurement action that has been identified in the solicitation or posted in SAM at *www.sam.gov,* unless the Government has issued an applicable waiver. Under the authority of 41 U.S.C. 4713, covered-procurement actions are specific agency decisions with respect to supply chain risk, and do not apply to micro-purchases. The statute requires a procurement to include a supply chain risk requirement or evaluation factor before a covered procurement action can apply and micro-purchases do not have a supply chain risk requirement or evaluation factor.

5. Controlled Unclassified Information (CUI) Requirements

Changes are proposed to amend the FAR to implement the National Archives and Records Administration's (NARA) Controlled Unclassified Information Program enacted under an Executive Order entitled Controlled Unclassified Information. These FAR changes are proposed to implement NARA's final rule on the Federal CUI Program as it relates to performance under Federal contracts.

This rule proposes to create a common mechanism, the Standard Form XXX, Controlled Unclassified Information (CUI) Requirements, to enable a uniform process for communicating the information contractors must manage and safeguard as well as identify where a CUI incident must be reported and when there are CUI incident reporting requirements that differ from or are in addition to those in the clause at FAR 52.240–7(e). Currently laws, Federal regulations, and Government-wide policies already mandate these protections, but there is not a standard way these requirements are identified and shared with contractors.

On January 15, 2025, the FAR Council issued FAR Case 2017–016, Controlled Unclassified Information, as a proposed rule at 90 FR 4278. Respondents submitted comments in response to this proposed rule. Multiple respondents submitted comments regarding the CUI incident reporting timeline. Based on these comments, the timeline for reporting CUI incidents has been updated in this proposed rule to 72 hours from discovery which aligns with related incident reporting requirements (*e.g.,* DFARS 252.204–7012, Cyber Incident Reporting for Critical Infrastructure Act of 2022) and ensures contractors have sufficient time to provide accurate information and

determine whether the event qualifies as a CUI incident. The rule has been updated so that the contractor must submit within the first report as many of the applicable data elements that are available at the time. If the first report does not contain all of the applicable data elements or some of the information changes after the investigation is substantially complete, the contractor must submit a subsequent report containing the updated or new information in accordance with FAR 52.240–7(e)(2).

This rule also incorporates the following significant updates to the CUI requirements that will reduce burden on both the public and Government. Additionally, the clause at FAR 52.240–YY, Identifying and Reporting Information That Is Potentially Controlled Unclassified Information, has been deleted. These changes were based on the public comments received on the proposed rule published at 90 FR 4278. The FAR Council is seeking additional comments on these proposed changes.

CUI Incident Reporting Location for CUI in a Non-Federally-controlled Facility. The location for incident reporting for Department of Defense contracts is *https://dibnet.dod.mil* and for non-Department of Defense contracts is to CISA at *https://www.cisa.gov/reporting-cyber-incident.* The contractor must also provide a notification to the contracting officer that a CUI incident report has been submitted. For any CUI incident involving a FedRAMP authorized cloud computing service provider that has reported the CUI incident in accordance with FedRAMP Incident Communication Procedures, the contractor is not required to submit any additional report beyond following the FedRAMP Incident Communication Procedures.

CUI Incident Reporting Subcontractor Requirements. The subcontractor reporting in the rule has been updated to have the subcontractor report directly to the Government and provide a notification to the contracting officer and next higher tier contractor (if applicable) in accordance with FAR 52.240–7(e)(2).

CUI Incident Reporting Scope. The definition of CUI incident has been updated to only require unauthorized disclosures, improper modifications, or improper destruction of CUI, in any form or medium, or unauthorized access to the information system on which the CUI resides. The definition has also been updated to clarify that improper handling of CUI (*e.g.,* unmarked or mismarked CUI) is not a CUI incident unless the improper handling has resulted in unauthorized disclosure, improper modification, or improper destruction of CUI. The rule has also been updated to add an exception for any CUI incident involving a FedRAMP authorized cloud service provider that is reported in accordance with FedRAMP incident communication procedures.

Reporting of Unmarked or Mismarked CUI. This rule proposes to extend the reporting time frame to 72 hours from discovery to align with related incident reporting requirements (*e.g.,* DFARS 252.204–7012, Cyber Incident Reporting for Critical Infrastructure Act of 2022) and ensure contractors have sufficient time to provide accurate information.

Training. This rule proposes to remove the requirement for specific training that mandated a one-size-fits-all approach for how contractors must train their employees. The updated approach provides flexibility similar to other FAR requirements regarding how contractors ensure their employees will have the knowledge, skills, and abilities to comply with the requirements of this rule.

Contractor Liability. The rule has been updated to remove the language specifying contractor liability for CUI incidents.

Contractor Identification of Proprietary Information. The prescriptive requirements to identify contractor proprietary information have been removed from the CUI provision and clause, because other parts of the FAR already detail requirements for handling such information (*e.g.,* FAR 3.104–4 and 52.215–1(e)).

Contractor Proprietary Information Status as CUI. This rule proposes to update the definition of CUI to add an exception for information a contractor creates or possesses that a law, regulation, or Governmentwide policy does not specifically require the contractor to handle using safeguarding or dissemination controls.

Standard Form XXX. This rule proposes to update the SF XXX to add information regarding the safeguarding and/or dissemination authority and the indicator for identifying each category of CUI. This update will make it easier for contractors to understand the specific types of CUI that will be involved, including the specific controls. Additional conforming updates have been made to the SF XXX to conform with updates in the clause at FAR 52.240–7 and provision at FAR 52.240–6 (*e.g.,* removal of training requirements). To reduce burden and ensure uniformity across the Government, SF XXX was also updated to identify the applicable organizational defined parameters for NIST 800–171 Revision 3. These organizationally defined parameters are necessary to ensure contractors only have to follow one standardized requirement across Government. The Government intends to harmonize these organizationally-defined parameters to ensure contractors can follow one standardized approach for protecting CUI across agencies. Consequently, this rule aligns to the values that will be codified in 32 CFR part 170 via DoD rulemaking. Current definitions for these values may be found at *https://dowcio.war.gov/Portals/0/Documents/CMMC/OrgDefinedParmsNISTSP800-171.pdf.*

Enhanced Controls Using NIST SP 800–172. This rule proposes to update the clause at FAR 52.240–7 to clarify that specific requirements within NIST SP 800–172 will only apply when identified by the agency for a critical program or high-value asset. The Government intends to harmonize these organizationally-defined parameters to ensure contractors can follow one standardized approach for protecting CUI across agencies. Consequently, this rule aligns with the values at 32 CFR 170.14.

Potential Inconsistent Requirements Between This Rule and Other Regulations. This rule proposes to add a new paragraph (f) to FAR clause 52.240–7 that states contractors must notify the contracting officer within 72 hours of determining that they are not able to comply with any of the requirements in this clause due to conflict with another law or regulation. This will allow flexibility for agencies to work with contractors on alternative controls where another domestic or foreign law may prevent compliance with a specific requirement in the clause.

Government Access to Contractor Facilities and Systems. This rule proposes to remove the compliance requirements at FAR 52.240–7(e).

Government Validation Actions. This rule proposes to remove the compliance section in the clause that contained the validation requirements since specific procedures for validation do not need to be specified in this rule. Normal contract administration procedures for validating compliance with requirements are sufficient.

CUI Definition. This rule proposes to update the definition for CUI to remove the exclusions for covered Federal information and classified information since these exclusions are not necessary for these terms.

Cloud Services Controls. The rule proposes to update FAR 52.240–7 to state that if the Contractor uses a cloud service provider to store, process, or

transmit any CUI identified in SF XXX, the cloud computing service provider must meet security requirements equivalent to those established by the Government for FedRAMP Moderate baseline. This is meant to provide more flexibility to the contractor while ensuring the contractor implements the applicable security requirements.

Patents. This proposed rule removes updates to patents in FAR part 27.

Subcontract Flow Down. This proposed rule updates the subcontractor flowdown at FAR 52.240–7(g) to clarify that there is no requirement to include the SF XXX or modified version of the SF XXX. Contractors can decide how best to flow down the requirements in the SF XXX.

Virtual Desktop Infrastructure. This proposed rule updates FAR 52.240–7(d)(3)(ii)(A) to state that an endpoint hosting a virtual desktop infrastructure (VDI) client configured to prevent any processing, storage, or transmission of CUI beyond the keyboard/video/mouse sent to the VDI client is considered an out-of-scope asset.

Telecommunication Providers Transmitting CUI. The rule has been updated to exempt commercial communications networks that transmit government and non-government information using the same equipment, protocols, and methodologies, without regard to the source or recipient of the information (see FAR 52.240–7(d)(3)(ii)(A)).

H. Summary of Changes to FAR Part 52

1. *FAR 52.000, 52.1 and 52.3.* This proposed rule updates FAR 52.000, Scope of part, and 52.3, Provision and Clause Matrix to remove the text and mark it as reserved. FAR 52.1, Instructions for Using Provisions and Clauses, is being proposed to be revised to streamline and remove nonstatutory and redundant text. The text in FAR 52.101(b)(1), concerning the numbering of FAR provisions and clauses, is being proposed to be moved to FAR 1.104(b), where other details about the FAR's arrangement and numbering are provided. Additionally, the text at FAR 52.101(b)(2), which addresses provisions or clauses supplementing the FAR, is proposed for relocation to FAR 1.201(a)(1). This move aims to consolidate information related to agency acquisition regulations.

2. *FAR Part 52 renumbering of provisions and clauses.* As a result of the RFO, the FAR Council is considering establishing a new FAR subpart in part 52, and relocating and renumbering all provisions and clauses under this new subpart. This means, if subpart 52.4 was used, all provisions and clauses would begin with 52.4 instead of 52.2. This change is anticipated to prevent confusion and increase compliance by creating a clear distinction between versions of a provision or clause prior to the RFO. Other benefits include avoiding potential clause numbering conflicts and information system and data collection impacts. The FAR Council welcomes comments on the potential impact of such a change on contractors, government personnel, and other stakeholders.

I. Summary of Changes to FAR Part 53

This rule proposes to relocate the content from the existing FAR part 53 to a new FAR subpart 1.6, and mark FAR part 53 as reserved. For more details, refer to paragraph B.2 of this Discussion and Analysis section.

III. Applicability to Contracts and Subcontracts Valued at or Below the Simplified Acquisition Threshold and for Commercial Products and Commercial Services

The following sections address the applicability of provisions and clauses prescribed in parts 1, 2, 4, 33, and 40 to solicitations and contracts valued at or below the simplified acquisition threshold (SAT) and those for the acquisition of commercial products, commercially available off-the-shelf (COTS) items, and commercial services. Prescriptions for provisions and clauses in these parts have been updated to reflect applicability to commercial acquisitions.

A. Contracts and Subcontracts Valued at or Below the Simplified Acquisition Threshold

This proposed rule, if finalized, does not alter the prescriptions of provisions and clauses included in this proposed rule to change their applicability to contracts and subcontracts valued at or below the SAT.

This proposed rule, if finalized, would consolidate the provisions at FAR 52.204–3, Taxpayer Identification; 52.204–6, Unique Entity Identifier; 52.204–16, Commercial and Government Entity Code Reporting; 52.204–17, Ownership or Control of Offeror; and 52.204–20, Predecessor of Offeror; under the revised provision at FAR 52.204–7, if SAM registration is required; or a new solicitation provision at FAR 52.204–XX, Offeror Identification, if SAM registration is not required.

This proposed rule, if finalized, would consolidate the clauses at FAR 52.204–12, Unique Entity Identifier Maintenance; and 52.204–18, Commercial and Government Entity Code Maintenance; under the revised clause at FAR 52.204–13, if SAM registration is required; or a new contract clause at FAR 52.204–YY, Contractor Identification, if SAM registration is not required. The consolidated FAR provisions and clauses would continue to apply to contracts valued at or below the SAT.

This proposed rule, if finalized, would transfer the provision(s) at 52.204–24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment, 52.204–26, Covered Telecommunications Equipment or Services—Representation, 52.204–29, Federal Acquisition Supply Chain Security Act Orders—Representation and Disclosures, 52.225–20, Prohibition on Conducting Restricted Business Operations in Sudan—Certification, and 52.225–25, Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications and consolidate the requirements into a new provision at FAR 52.240–2, Security Prohibitions and Exclusions-Representations and Certifications.

Additionally, this proposed rule, if finalized, would transfer the clauses(s) at 52.204–23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities, 52.204–25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment, 52.204–27, Prohibition on a ByteDance Covered Application, 52.204–28, Federal Acquisition Supply Chain Security Act Orders—Federal Supply Schedules, Governmentwide Acquisition Contracts, and Multi-Agency Contracts, 52.204–30, Federal Acquisition Supply Chain Security Act Orders—Prohibition, 52.225–13 Restrictions on Certain Foreign Purchases, and 52.240–1 Prohibition on Unmanned Aircraft Systems Manufactured or Assembled by American Security Drone Act—Covered Foreign Entities and consolidate the requirements into a new clause at FAR 52.240–3, Security Prohibitions and Exclusion. The provision and clause would continue to apply to contracts and subcontracts valued at or below the SAT. See section II.G.4. of this preamble.

This proposed rule, if finalized, will also implement the requirements of section 203 of the Federal Acquisition Supply Chain Security Act of 2018 (Title II of the SECURE Technology Act, Pub. L. 115–390, Dec. 21, 2018 (see 41 U.S.C. 4713)) in the provision at FAR

52.240–2, Security Prohibitions and Exclusions—Representations and Certifications, and the clause at FAR 52.240–3, Security Prohibitions and Exclusions. 41 U.S.C. 1905 governs the applicability of laws to contracts valued at or below the SAT. Section 1905 exempts contracts and subcontracts valued at or below the SAT from certain provisions of law unless the Federal Acquisition Regulatory Council (FAR Council) makes a written determination that doing so would not be in the best interest of the Federal Government. The FAR Council intends to make a determination to apply this statute to acquisitions valued at or below the SAT. Covered procurement actions, which are specific agency decisions with respect to supply chain risk executed under the authority in 41 U.S.C. 4713, will not be taken with respect to micro-purchases, since the statute requires a procurement to include a supply chain risk requirement or evaluation factor before a covered procurement action can apply and micro-purchases do not have a supply chain risk requirement or evaluation factor. See section II.G.4. of this preamble.

B. Contracts and Subcontracts for Commercial Products, Commercially Available Off-The-Shelf Items, and Commercial Services

41 U.S.C. 1906 governs the applicability of laws to contracts for the acquisition of commercial products and commercial services and gives the FAR Council the authority to determine to apply a law to contracts or subcontracts for the acquisition of commercial products and commercial services. 41 U.S.C. 1907 exempts contracts for commercially available off-the-shelf (COTS) items from certain provisions of law unless the Administrator for Federal Procurement Policy determines that doing so would not be in the best interest of the Federal Government.

Section 839 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232) required the FAR Council and the Administrator of Federal Procurement Policy to review prior determinations under 41 U.S.C. 1906 and 41 U.S.C. 1907, as well as the applicability of provisions and clauses to contracts and subcontracts for commercial products, COTS items, and commercial services that do not implement statute or Executive Order, and propose amendments to the FAR to eliminate or exempt such requirements from commercial acquisitions, unless there are specific reasons to retain particular requirements.

In accordance with section 839 of the NDAA for FY 2019 and their authorities under 41 U.S.C. 1906 and 1907, the FAR Council reviewed the applicability of the provisions and clauses associated with the FAR parts covered by this proposed rule.

The following table reflects the FAR Council and Administrator of Federal Procurement Policy's proposed determination regarding the applicability of the provisions and clauses to solicitations and contracts for commercial products, COTS items, and/or commercial services. In making proposed applicability determinations, the FAR Council considered factors such as whether the provision or clause advances national security or economic security, contributes to the resilience of contractors and subcontractors in the federal marketplace, or advances uniformity and clarity in the performance of basic functions that are essential to sound procurement.

Accordingly, this proposed rule, if finalized, would revise provision and clause prescriptions to clearly reflect applicability to commercial acquisitions as outlined in the table. An ''X'' in the following table indicates the provision or clause will apply to that category of commercial acquisition, as prescribed:

Provision/clause No.	Title	Commercial products	Commercial services	COTS items
52.201–2	Computer Generated Forms	X	X	X
52.202–1	Definitions	X	X	X
52.204–5	Women-Owned Business (Other Than Small Business)	X	X	X
52.204–7	System for Award Management—Registration	X	X	X
52.204–7 Alt I	System for Award Management—Registration	X	X	X
52.204–9	Personal Identity Verification of Contractor Personnel	X	X	
52.204–10	Reporting Executive Compensation and First-Tier Subcontract Awards.			
52.204–13	System for Award Management—Maintenance	X	X	X
52.204–14	Service Contract Reporting Requirements			
52.204–15	Service Contract Reporting Requirements for Indefinite-Delivery Contracts.			
52.204–19	Incorporation by Reference of Representations and Certifications.	X	X	X
52.204–XX	Offeror Identification	X	X	X
52.204–YY	Contractor Identification	X	X	X
52.233–1	Disputes	X	X	X
52.233–2	Service of Protest	X	X	X
52.233–3	Protest after Award	X	X	X
52.233–3 Alt I	Protest after Award			
52.233–4	Applicable Law for Breach of Contract Claim	X	X	X
52.240–2	Security Prohibitions and Exclusions—Representations and Certifications.	X	X	X
52.240–3	Security Prohibitions and Exclusions	X	X	X
52.240–3 Alt I	Security Prohibitions and Exclusions	X	X	X
52.240–4	Classified information	X	X	X
52.240–4 Alt I	Classified information			
52.240–4 Alt II	Classified information		X	
52.240–5	Covered Federal Information Systems	X	X	
52.240–6	Notice of Controlled Unclassified Information	X	X	
52.240–7	Controlled Unclassified Information	X	X	

The FAR Council also reviewed subcontract flow down requirements in clauses associated with the FAR parts covered by this proposed rule. The following table reflects the FAR Council and Administrator of Federal Procurement Policy's proposal regarding whether those clauses flow down to subcontracts for commercial products, COTS items, and/or commercial services. This proposed rule, if finalized, would revise the subcontract paragraphs in these clauses to clearly state whether the clause flows down to commercial subcontracts, as outlined in the table. An ''X'' in the following table indicates the provision or clause will apply to subcontracts for that category of commercial subcontracts, as described in the clause:

Clause No.	Title	Commercial products	Commercial services	COTS items
52.204–9	Personal Identity Verification of Contractor Personnel	X	X	
52.204–14	Service Contract Reporting Requirements			
52.204–15	Service Contract Reporting Requirements for Indefinite-Delivery Contracts.			
52.240–3	Security Prohibitions and Exclusions	X	X	X
52.240–3 Alt I	Security Prohibitions and Exclusions	X	X	X
52.240–4	Classified information	X	X	X
52.240–4 Alt I	Classified information	X	X	X
52.240–4 Alt II	Classified information	X	X	X
52.240–5	Covered Federal Information Systems	X	X	
52.240–7	Controlled Unclassified Information	X	X	

IV. Expected Impact of the Rule

The intended impact of the RFO, as stated in E.O. 14275, is to restore the Government's ability to ''deliver on a timely basis the best value product or service to the customer, while maintaining the public's trust and fulfilling public policy objectives.'' Each of the RFO rulemakings is designed to contribute to this impact by emphasizing mission first, by aligning acquisition activities directly to achieving the agency's overarching objectives and serving the public interest and elevating the importance of fiscal responsibility. The proposed RFO rules focus on three goals in particular: (1) timely acquisition and delivery, (2) lower cost and accountability in all spending, and (3) increased competition.

Timeliness. Timely acquisition and delivery are essential for mission success. To this end, RFO rules propose to eliminate mandates that unnecessarily interfere with agency discretion to determine the best way to procure products and services. The proposed RFO rules highlight more clearly streamlined and simplified authorities that allow buyers to use their time more efficiently and are expected to reduce time between solicitation and award. The proposed RFO rules are expected to make it easier for contracting officers to leverage commercial practices that are familiar to the commercial marketplace. This is expected to make it easier for sellers to engage and respond to Government solicitations more rapidly.

Lower cost. E.O. 14271, Ensuring Commercial, Cost-Effective Solutions in Federal Contracts (April 15, 2025), directs the Government to utilize, to the maximum extent practicable, the commercial marketplace and the innovations of private enterprise to provide better, more cost-effective services to taxpayers, as envisioned by the Federal Acquisition Streamlining Act. The procurement of custom products and services where a suitable or superior commercial solution would have fulfilled the Government's needs has resulted in avoidable waste to the detriment of American taxpayers.

To address these concerns, consistent with associated responsibilities in section 839 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232), the FAR Council reviewed prescriptions for provisions and clauses to ensure all prescriptions are clear regarding their applicability to acquisitions for commercial products and services. Currently, many prescriptions do not specify applicability to commercial acquisitions and leave the applicability determination to contracting officer interpretation. By specifically stating when a provision or clause can be applied to commercial acquisitions, proposed RFO rules should decrease the likelihood of inclusion of provisions and clauses in commercial acquisitions that are not required by law and drive greater consistency in the terms and conditions used in these contracts. In turn, these changes should increase the participation of commercial sellers, who are unwilling or unable to manage the cost of complying with noncommercial requirements, and also improve taxpayer access to affordable commercial solutions.

Some RFO rules propose to delete requirements placed on commercial or noncommercial sellers that are not related to performance of the contract, drive up cost without attendant performance benefits, and may misdirect efforts away from innovation, investment and economic growth. Greater emphasis on timeliness should reduce bidders' carrying costs, enabling them to pass those savings on to customers through lower prices.

Increased competition. Since enactment of the Competition in Contracting Act of 1984 (Title VII of Pub. L. 98–369), competition has been the cornerstone of the Federal acquisition system. The benefits of competition are well established: competition saves money for the taxpayer, improves contractor performance, curbs fraud, and promotes accountability for results. Competition also drives contractor resilience and positions the U.S. market to develop a strategic advantage for the nation.

According to data in the SAM Contract Awards Management, roughly 45 percent of contract dollars were awarded in FY 2025 either without competition or with competition that received only one offer. Of equal concern, the Federal marketplace has seen a significant decline over the past 20 years in the number of businesses—especially small businesses—participating in the Federal supplier base. Studies suggest that high compliance costs lead to the misallocation of resources away from more profitable activities and discourage innovation, investment, and economic growth (Council of Economic Advisers, Executive Office of the President. June 2025. The Economic Benefits of Current Deregulatory Policies. *https://www.whitehouse.gov/wp-content/uploads/2025/03/The-Economic-Benefits-of-Current-*

Deregulatory-Efforts.pdf). This may shelter incumbent contractors and stifle competition, reducing startup activity and job formation.

The RFO rules seek to increase participation in agency competitions and the resilience of the Federal supplier base, which includes commercial entities, small businesses, manufacturers, and nontraditional suppliers. The RFO will achieve this outcome by removing regulatory mandates that are not rooted in statute or essential to sound procurement, promoting greater reliance on practices that reduce transaction costs, and improving the quality of communications with offerors and potential offerors. Access to a broader range of solutions in a more dynamic marketplace will drive better return for each taxpayer dollar spent and increase taxpayer confidence in the Federal acquisition system.

The Government has conducted a regulatory impact analysis (RIA) for the RFO rulemaking inclusive of this proposed rule for FAR parts 1, 2, 4, 33, 40 and 53. The RIA includes a discussion of the anticipated effects of the rulemakings as follows:

1. FAR Part 1

This proposed rule, if finalized, is not expected to have a significant impact on contractors or subcontracts. The proposed changes to FAR part 1 are primarily internal Government procedures.

Guiding principles. FAR part 1 revises the guiding principles for the entire FAR system and sets the tone for the revolutionary FAR overhaul. The FAR now emphasizes the importance of meeting the agency's mission first efficiently and effectively. By prioritizing the efficient and effective achievement of agency missions, the revision is expected to streamline decision-making and better align acquisition outcomes with strategic Government goals.

The proposed changes also recognize the value of timely acquisitions balanced with encouraging innovation, promoting merit and meeting mission ensures taxpayer dollars are being spent effectively, which benefits both Government and industry. The explicit recognition of timely acquisitions, balanced with encouraging innovation and merit, is a benefit that fosters a more dynamic and responsive marketplace. This strategic balance is intended to drive better value and more effective stewardship of taxpayer dollars.

The retention and stronger emphasis on maximizing commercial products and commercial services will ensure the Government leverages the full capabilities of the commercial sector.

Regulatory sunset. This proposed rule establishes a process for the FAR Council to periodically evaluate the non-statutory requirements retained in the FAR. This is expected to create burden for the FAR Council to conduct reviews and issue notices for public comment. However, it is expected to provide benefits to contractors and create a more agile FAR that keeps pace with changes in technology and the Federal marketplace. By requiring non-statutory rules to be periodically re-evaluated, it ensures that regulations remain necessary, clear, and relevant. Periodic re-evaluation also encourages the FAR Council to assess whether the expected benefits or costs associated with a provision have increased or decreased due to changes in technology or other relevant factors. During this process the costs and benefits of any action will be assessed as part of the rulemaking.

Streamlining. The streamlining and removal of the table listing OMB approved information collections and the table listing the renaming of public laws as a result of the positive law codification from the FAR to *www.acquisition.gov,* enhance accessibility and reduce the administrative complexity associated with the FAR. This shift from a static text to a system pointing to live resources means that updates can occur without the lengthy rulemaking process, ensuring that information stays current, which ultimately makes it easier and faster for contractors to do business with the Government.

2. FAR Part 2

This proposed rule, if finalized, is not expected to have a significant impact on contractors or subcontracts.

The proposed changes to FAR part 2 are intended to (1) remove terms that are no longer expected to be used in the FAR; (2) make revisions to the meaning of existing terms; (3) add new terms that are intended to be used in multiple FAR parts; (4) relocate certain terms to another FAR part where the term is used; and (5) create an acronym list. These changes are expected to benefit both industry and the Government by enhancing readability of the FAR.

3. FAR Part 4

The proposed changes to part 4 are expected to have a significant positive impact on both industry and the Government.

- Reducing industry burden by not applying the following clauses to commercial contracts: FAR 52.204–10, 52.204–14, and 52.204–15.
- Streamlining and clarifying the collection of information from entities interested in obtaining Government contracts whether SAM registration is required or not.
- Reducing burden by consolidating 5 separate solicitation provisions into 2 provisions, FAR 52.204–7 when SAM registration is required or FAR 52.204–XX when SAM registration is not required.
- Streamlining SAM registration by only having entity level representations and certifications in SAM.

For the Government, the changes will result in:

- Simplified Federal procurement.
- Improved procurement outcomes through more accurate and traceable terms and conditions that are specific to each individual procurement.

For industry, the changes will result in:

- A SAM registration process that is more efficient and easier to navigate.
- Reduced administrative burden and fewer requests to update company information in SAM once procurement-specific representations and certifications are moved to the individual solicitations.

4. FAR Part 33

This proposed rule, if finalized, is not expected to have a significant impact on contractors or subcontracts. The proposed changes to FAR part 33 more clearly describe the purpose of protests, encourage more disclosure of information at the agency protest level, and streamline General Accountability Office (GAO) protest procedures. These changes are intended to benefit and reduce burden on both Government and contractors.

A. Purpose Statement

This proposed rule establishes a purpose statement of the bid protest system (see FAR 33.100). Establishing a clear purpose statement for the bid protest system is fundamental to maintaining a fair and transparent bid protest system because it safeguards interested parties' rights to an independent review while promoting integrity, competition, and accountability in the FAR system. This clarity of purpose also serves to deter and discourage abuse, thereby reducing frivolous protests and minimizing disruption to the award process.

B. Agency Protest Enhancements

Agency protest enhancements are being proposed in this rule, including requiring contracting officers to report

protests to the head of the contracting activity. This is expected to create additional burden on agencies to capture and track this information. However, this information is expected to result in improved economy and efficiency in Federal procurement in the long-term. Capturing and tracking this information increases agency awareness of protest issues and enables the Government to systematically elevate protest issues, and more effectively address concerns raised by protesters. This internal reporting mechanism strengthens the agency's ability to capture more comprehensive protest data, which is essential for informed decision making. For example, this data will enable agency management to identify agency-specific trends in protest issues and develop agency-wide actions to address them. Taken together this enhanced transparency and management oversight directly increases protestor confidence in the fairness and responsiveness of the agency protest process.

For protests reviewed above the contracting officer, this rule proposes a significant enhancement by allowing the disclosure of a redacted copy of the agency's final technical evaluation of the protester's proposal and a redacted copy of the source selection decision. This disclosure will increase transparency and build credibility in the agency protest process. Additionally, producing these documents can reduce the number of protest grounds or render the protest moot. Most protests are filed with limited information. Insight into their evaluation and the award decision replaces guesswork with facts, eliminating the ''information gap'' which could lead to the withdrawal or dismissal of the protest. This coupled with the existing benefits of faster protest resolution time for agency protests, (35 days for agency protests versus 100 or more days for GAO protests) are expected to reduce disruptions in the acquisition process. For example, because protest of a contract award generally requires the agency to stay performance of the awarded contract pending resolution of the protest, faster protest resolution enables the agency to benefit from contract performance sooner. Consequently, these benefits are expected to lead to a reduction in litigation costs for both the Government and industry.

C. Streamlining Government Accountability Office (GAO) Protest Regulatory Text

This proposed rule removes regulatory text that repeats or summarizes GAO protest regulations and instead points contracting officers directly to the applicable GAO regulations at 4 CFR part 21. These changes make this section of the FAR more concise, clear, and easier to navigate. This is a critical benefit as it minimizes the risk of legal discrepancies between the different regulatory bodies, reduces the administrative burden on contracting officers, and lowers the long-term need for additional rulemaking to harmonize duplicative text.

5. FAR Part 39

This proposed rule, if finalized, is not expected to have a significant impact on contractors or subcontracts.

A. Duplicative Privacy and Security Safeguards

This proposed rule seeks to remove the requirements of FAR 39.105, Privacy and FAR clause 52.239–1, Privacy or security safeguards, since these requirements are addressed elsewhere in the FAR. Security controls that safeguard publication or disclosure are covered in FAR 53.240–3 Security Prohibitions and Exclusions, and other external controls exist that restrict disclosure of certain information and provide safeguards for Federal information systems (*e.g.,* PM–1: Information Security Program Plan and SR–2: Supply Chain Risk Management Plan). These changes directly contribute to increased clarity and readability for both contracting officers and contractors leading to reduced administrative burden as contracting officers and contractors no longer need to reconcile overlapping requirements. Furthermore, by pointing to external control plans that are updated outside of the lengthy rulemaking process, ensuring security and privacy safeguards remain current and responsive to an evolving environment.

B. PNT Services

This proposed rule, if finalized, is not expected to have a significant impact on contractors or subcontractors. This proposed rule primarily relates to internal Government business practices as it enhances acquisition planning regarding PNT services. These changes in the FAR will provide acquisition planners better guidance on how to assess for PNT dependencies, capture PNT operational requirements, and account for needed PNT resiliency. This guidance will provide contractors with a better understanding of such considerations in Government acquisitions for products, systems, or services dependent on PNT services.

C. NICE Framework

This rule proposes to require agencies to become familiar with the NICE Framework provided in NIST Special Publication 800–181 and additional tools to implement it at *https://www.nist.gov/nice/*framework to describe the cybersecurity workforce tasks, knowledge, skills, and work roles when procuring information technology support services and cybersecurity support services. Agencies are expected to verify that offers, quotes, and reporting requirements (*e.g.,* contract deliverables) align with the NICE Framework. By using the NICE Framework to describe cybersecurity workforce tasks, knowledge, skills, and work roles, the proposed changes would create a common standard which would provide contractors with clearer and more standardized requirements in solicitations. This clarity reduces ambiguity and allows contractors to better tailor their offers and proposals to the Government's exact needs.

This rule requires contractors to ensure contract deliverables are consistent with the NICE Framework when specified for the acquisition of information technology support services and cybersecurity support services. This change also provides contractors with a consistent roadmap for internal training and workforce development. By aligning their talent pool with the NICE Framework, contractors can more efficiently invest in and maintain a qualified workforce capable of meeting Federal contract requirements across multiple agencies.

6. FAR Part 40

1. Security Exclusions and Prohibitions

Improved National Security. Part 40 consolidates and strengthens regulations that prohibit contracting with entities that pose security risks (*e.g.,* certain Chinese telecommunications companies, Kaspersky Lab, TikTok) and creates a single ''do not buy'' list. This directly protects federal information systems and critical infrastructure from foreign threats, which in turn enhances overall public safety and security.

Enhanced Clarity and Compliance. The use of plain language and the consolidation of numerous provisions and clauses into fewer, more comprehensive ones (*e.g.,* merging five separate provisions into one provision, and seven separate clauses to one clause) reduces confusion for contractors. This clarity helps ensure higher compliance rates and more secure contracts across the Federal Government.

Greater Efficiency and Faster Acquisitions. By streamlining complex, often redundant, security requirements from parts 4, 25, and 40 into a single, logically organized part 40, the process for acquisition professionals is simplified. This ''common sense'' approach reduces administrative burdens and the time it takes to award contracts, allowing Government agencies to acquire necessary goods and services more quickly and efficiently. Reorganizing the content and consolidating information allows contractors and the acquisition workforce to better understand how current prohibitions are related, reducing the burden on the Government workforce and contractors while improving national security.

Covered Procurement Actions.

This rule will allow executive agencies to use the authorities in 41 U.S.C. 4713 to exclude certain products, services, or sources from the Federal supply chain to protect national security. Foreign adversaries are increasingly creating and exploiting vulnerabilities in information and communications technology to commit malicious cyber-enabled attacks, including economic espionage against the United States and its citizens. Vulnerabilities may be introduced during any phase of the product or service life cycle: design, development and production, distribution, acquisition and deployment, maintenance, and disposal. This rule helps mitigate these supply chain risks by ensuring agencies can address these national security risks by excluding products, services, or sources through a covered procurement action. Excluding specific sources, services, or sources is an important tool for addressing these national security risks, because there are specific risks that cannot be mitigated through additional security controls being applied and can only be mitigated by complete exclusion.

Telecommunications and Video Surveillance Equipment Prohibition.

This rule incorporates several updates to the prohibition requirements from the interim rules such as clarifying definitions, exceptions, and the scope of the rule that will reduce burden on both the public and Government. For example, the rule clarifies what activities are not considered use of covered telecommunications equipment or services for purposes of this specific prohibition. The rule also proposes definitions for telecommunications equipment, telecommunications services, video surveillance equipment, video surveillance services, and system.

2. CUI Requirements

Uniform Cybersecurity Practices. Establishing uniform requirements for how the acquisition workforce and Federal contractors manage CUI will significantly improve the Government and Federal contractors' ability to protect Federal information and information systems from criminals and our adversaries. Absent the uniform approach proposed in this rule, agencies will continue to employ ad hoc, agency-specific policies to manage this information, an approach that can cause agencies to mark and handle information inconsistently and inefficiently. While waivers may be applied in some circumstances, this rule is intended to establish a Governmentwide baseline that will lead to more effective implementation of protections for this sensitive information by the acquisition workforce and contractors. More effective implementation of requirements for identifying and marking CUI will reduce scenarios in which contractors may not realize the information that they are handling is sensitive information that must be safeguarded.

Protection From Potential Financial Impacts of CUI Incidents. Failure to adopt these basic cybersecurity requirements can have a substantial financial impact on a business. There have been many analyses regarding the cost of cybersecurity incidents and the estimates vary widely. In order to establish a defensible set of cost and loss data that is suitable for the analysis of cybersecurity incident costs in the Federal sector, the Cyber Security and Infrastructure Security Agency (CISA) Office of the Chief Economist (OCE), in the Department of Homeland Security, reviewed a broad range of cyber cost and loss studies and presented an analysis of the per-incident, aggregate, and scenario-based estimates of cyber loss. On October 26, 2020, the CISA OCE released a report (*https://www.cisa.gov/sites/default/files/2024-10/CISA-OCE%20Cost%20of%20Cyber%20Incidents%20Study_508.pdf*) with the results of their analyses and a summary of per-incident loss estimates available in the most widely cited published research, commercial datasets, and industry reports. OCE estimated the median cost of a cybersecurity incident cited in the surveyed publications ranged from $0.5 to $1.6 million. The maximum cost per incident cited ranged from $11.7 million to greater than $1 billion. The CISA OCE acknowledges in its report that the differences in the assumptions, approaches to data collection, and specific incidents included in the datasets for the above sources result in a high degree of variability among the loss estimates.

Increased Protection of Sensitive Information. Given the potential financial impacts a CUI incident may have on companies and individuals, it is imperative that Federal contractors who are entrusted with sensitive information in the performance of Government contracts adopt the basic cybersecurity hygiene requirements outlined in this rule. This increased baseline of cybersecurity hygiene across Federal contractors will reduce the number of incidents that have the potential to place sensitive information at risk and pose serious threats to individuals, Federal operations and assets, and the contractors themselves. For the remaining incidents that may occur, the requirement for contractors to report CUI incidents will allow the Federal Government to have appropriate situational awareness, quickly respond to the incident, and reduce the impact of the event.

7. FAR Part 53

Creating a centralized FAR forms list on *www.acquisition.gov* and referencing it in the new FAR subpart 1.6 (where the existing FAR part 53 is moving) simplifies user access to the forms and forms-related information. This change allows the list of forms to be updated outside the formal rulemaking process, reducing the FAR Council's administrative burden and speeding up Government updates.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Executive Order 14192

This rule is subject to E.O. 14192, Unleashing Prosperity Through Deregulation. This proposed rule, if finalized, is not anticipated to be an E.O. 14192 regulatory action because it

imposes no more than de minimis costs. See discussion in the ''Expected Impact of the Rule'' section of this preamble.

VII. Regulatory Flexibility Act

This proposed rule, if finalized, may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. However, an Initial Regulatory Flexibility Analysis (IRFA) has been performed and is as follows:

1. Reasons for the Action

Executive Order (E.O.) 14275, Restoring Common Sense to Federal Procurement, directs the elimination of excessive acquisition regulations to stop the inefficient use of American taxpayer dollars. The E.O. directs the first comprehensive end-to-end overhaul of the FAR in its 40-year history. The E.O. establishes the policy that the FAR should ''contain only provisions that are required by statute or that are otherwise necessary to support simplicity and usability, strengthen the efficacy of the procurement system, or protect economic or national security interests.'' In response to E.O. 14275, the Office of Management and Budget issued memorandum M–25–26, Overhauling the Federal Acquisition Regulation. The Memo directed the FAR Council to complete a ''revolutionary overhaul'' of the FAR. Therefore, the FAR Council is issuing twelve proposed rules that will collectively streamline the entire FAR.

2. Objectives of, and Legal Basis for, the Rule

The revolutionary FAR overhaul (RFO) rewrite represents a paradigm shift in federal acquisition. It emphasizes streamlining, clarity, and accessibility, while ensuring that the regulation focuses only on statutory mandates and foundational procurement principles. The RFO is designed to streamline compliance for contracting professionals, improve acquisition speed and agility, and reinforce mission outcomes over process formalities.

The basis for the RFO is E.O. 14275, Restoring Common Sense to Federal Procurement. The authority for promulgation of the FAR is 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

3. Description of and an Estimate of the Number of Small Entities to Which the Rule Will Apply

All small entities who want to contract with the Federal Government will have to familiarize themselves with the reorganized, streamlined, and revised FAR, including the content of this rulemaking. As of January 2026, there are 401,196 entities registered in the System for Award Management (SAM) that were small for at least one NAICS code they had selected.

a. FAR Part 1

FAR part 1 focuses on the Government's internal processes. The proposed revisions remove redundant or unnecessary content which results in making the regulations easier to navigate and understand for small entities. Additionally, the changes proposed in FAR part 1 do not place any new direct requirements on contractors.

b. FAR Part 4

The changes proposed by this rule to FAR part 4 impact all entities that do business with the Federal Government. These changes are expected to have a positive economic impact on a substantial number of small entities. Particularly the streamlining of the SAM registration will impact the 401,196 entities registered in SAM that were small for at least one NAICS code they had selected, which accounts for 70 percent of the total active entities registered in SAM.

c. FAR Part 33

The changes proposed by this rule to FAR part 33 help to more clearly describe the purpose of protests for both Government and contractors, encourage more disclosure of information for agency protests, and overall streamline the regulatory text related to GAO protest procedures. The impact on small entities is expected to be positive, specifically the enhancements to the agency-level protest process that allows for more information sharing and resolution in a swifter and less costly protest forum.

d. FAR Part 39

i. PNT Services. The changes proposed by this rule provide guidance to Government acquisition personnel on PNT services. The proposed rule does not represent any novel requirements but consolidates disparate standards into easier to follow guides for the acquisition community.

Clearer Federal customer PNT needs will help providers proactively adjust their products and services, contributing to the policy's goal of increased national resilience. Because PNT services are used in virtually all product or service classes, it is not feasible to isolate them to specific North American Industry Classification System or Product Service Codes. Therefore, based on data obtained from SAM Contract Awards Management for fiscal years 2022 through 2024, it is estimated on average approximately 114,159 unique entities were awarded contracts each year, of which approximately 75,013 were unique small entities.

ii. NICE Framework. This rule proposes to enhance cybersecurity by incorporating the NICE Framework lexicon and taxonomy into contracts for information technology and cybersecurity services This rule will enable agencies to evaluate whether personnel have the necessary knowledge and skills to perform the tasks specified in the contract, consistent with the NICE Framework.

This rule requires contractors to understand the NICE Framework, change internal operating procedures to reflect the new taxonomy, and ensure contract deliverables submitted to the Government are consistent with the NICE Framework.

Based on data obtained from SAM Contract Awards Management for fiscal years 2021 through 2023, it is estimated on average approximately 16,658 unique entities were awarded contracts each year, for cybersecurity and information technology services (based on Product and Service Code beginning with ''D''), of which approximately 64% (10,691) are unique small entities.

e. FAR Part 40

The changes proposed by this rule to FAR part 40 impact all entities that do business with the Federal Government. The proposed revisions to FAR part 40 merge and consolidate regulations found in multiple subparts throughout the FAR into a single, logically organized part. The requirements of various security prohibitions and exclusions have been relocated from FAR parts 4 and 25 into FAR part 40. The proposed changes simplify requirements making them easier to navigate and understand for small entities. This rule authorizes agencies to take agency specific exclusion actions called covered procurement actions. The specific exclusion actions allowed by the statute are defined in this rule as part of the definition of covered procurement action. The rule also incorporates requirements for protecting controlled unclassified information.

f. FAR Part 53

The changes proposed by this rule, to relocate the content from the existing FAR part 53 to a new FAR subpart 1.6, impact all entities that do business with the Federal Government. For more

details, refer to paragraph 3.a of this IRFA section.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule

a. FAR Part 1

This proposed rule does not contain any new reporting, recordkeeping or other compliance requirements. The reporting requirement established by FAR 52.201–1, Acquisition 360: Voluntary Survey is proposed to be removed from the FAR. The voluntary use of this form is now located in the FAR companion guide. FAR 52.253–1, Computer Generated Forms is being relocated from FAR part 53 to FAR part 1 without change. There are no new provisions or clauses.

b. FAR Part 4

This proposed rule does not contain any new reporting, recordkeeping or other compliance requirements under FAR part 4. The rule proposes to streamline compliance under the clauses at FAR 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards; 52.204–14, Service Contract Reporting Requirements; and 52.204–15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts, by excluding applicability to contracts for commercial acquisitions.

This rule also proposes to remove the FAR part 4 provisions and clauses as described in the table under paragraph 4.e of this IRFA.

c. FAR Parts 33 and 53

FAR parts 33 and 53 do not contain any new reporting, recordkeeping, or other compliance requirements.

d. FAR Part 39

This rule proposes to require contractors to understand the NICE Framework, change internal operating procedures to reflect the new taxonomy, and ensure contract deliverables submitted to the Government are consistent with the NICE Framework.

e. FAR Part 40

Existing reporting, recordkeeping, and compliance requirements from FAR parts 4, 25, and 40 are proposed for consolidation in FAR part 40 as described in the following table:

Existing reporting, recordkeeping, and compliance requirements moving and consolidating under FAR part 40:	
Under provision at FAR 52.240–2, Security Prohibitions and Exclusions—Representations and Certifications.	52.204–24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment. 52.204–26, Covered Telecommunications Equipment or Services—Representation. 52.204–29, Federal Acquisition Supply Chain Security Act Orders—Representation and Disclosures. 52.225–20, Prohibition on Conducting Restricted Business Operations in Sudan—Certification, and 52.225–25, Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications.
Under clause at FAR 52.240–3, Security Prohibitions and Exclusion.	52.204–23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities. 52.204–25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. 52.204–27, Prohibition on a ByteDance Covered Application. 52.204–28, Federal Acquisition Supply Chain Security Act Orders—Federal Supply Schedules, Governmentwide Acquisition Contracts, and Multi-Agency Contracts. 52.204–30, Federal Acquisition Supply Chain Security Act Orders—Prohibition. 52.225–13 Restrictions on Certain Foreign Purchases. 52.240–1 Prohibition on Unmanned Aircraft Systems Manufactured or Assembled by American Security Drone Act—Covered Foreign Entities.
FAR 52.240–4, Classified Information.	52.204–2, Security Requirements.
52.240–5, Covered Federal Information.	52.204–21, Basic Safeguarding of Covered Contractor Information Systems.

The proposed provision 52.240–2, Security Prohibitions and Exclusions—Representations and Certifications and clause 52.240–3, Security Prohibitions and Exclusion also authorize agencies to take an agency specific exclusion action called covered procurement actions. The specific exclusion actions allowed by the statute are defined in this rule as part of the definition of covered procurement action. Additionally, this proposed rule, if finalized, would add a new provision at 52.240–6, Notice of Controlled Unclassified Information Requirements, and a new clause at 52.240–7, Controlled Unclassified Information. The provision and clause are prescribed at FAR 40.304–6(a) and 40.304–6(b).

This proposed rule introduces a new standard form (SF) to support uniformity in Governmentwide implementation of these policies. It identifies roles and responsibilities for agencies and contractors when controlled unclassified information is located on Federal information systems within a Federal facility or resides on or transits through contractor information systems or within contractor facilities, and it adds a new clause and a provision to enable contractor reporting and compliance responsibilities in Federal solicitations and contracts.

5. Relevant Federal Rules Which May Duplicate, Overlap, or Conflict With the Rule

The proposed rule, if finalized, would not duplicate, overlap, or conflict with other Federal rules.

6. Description of Any Significant Alternatives to the Rule Which Accomplish the Stated Objectives of Applicable Statutes, and Which Minimize Any Significant Economic Impact of the Rule on Small Entities

There are no significant alternatives that would minimize the impact of the rule on small entities.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. The FAR Council invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

The FAR Council will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite ''5 U.S.C. 610 (FAR Case 2026–001)'' in correspondence.

VIII. Paperwork Reduction Act

This rule includes information collections under the Paperwork Reduction Act (44 U.S.C. 3501–3521). Following are the specific collections associated with each FAR part in this rule as previously approved by OMB followed by how each collection would be affected by the proposed rule. If a FAR part is not listed below, then there are no information collections associated with the part.

Part 1

OMB Control No. 9000–0204, Acquisition 360 Voluntary Survey. The changes under this proposed rule, if finalized, would not affect the information collection or the paperwork burden previously approved by OMB. The collection would remain unchanged.

Part 4

OMB Control Nos. 9000–0177, Reporting Executive Compensation and First-tier Subcontract Awards; and 9000–0189, Certain Federal Acquisition Regulation Part 4 Requirements: FAR Sections Affected: 52.204–3, 52.204–6, 52.204–7, 52.204–12 thru 52.204–18, 52.204–20, 52.204–23, 52.212–1(j), 52.212–3(b), and 52.212–3(l). The changes under this proposed rule, if finalized, would revise these information collections and the paperwork burden previously approved by OMB. The public reporting burden for these collections of information will be consolidated under OMB Control No. 9000–0189 with the new title ''Federal Acquisition Regulation Part 4 Requirements'' and OMB Control No. 9000–0177 will be discontinued. Additionally, the public reporting burden for OMB Control No. 9000–0189 will be revised to exclude commercial acquisitions from the information collection requirements under the clauses at FAR 52.204–10, 52.204–14, and 52.204–15 as described in section II. of this preamble.

The revised annual reporting burden is estimated as follows:

Respondents: 66,575.

Total Annual Responses: 271,227.

Total Burden Hours: 393,994.

Part 33

OMB Control No. 9000–0035, Claims and Appeals.

The changes under this proposed rule, if finalized, would not affect the information collection or the paperwork burden previously approved by OMB. The collection would remain unchanged.

Part 40

OMB Control No(s). 9000–0189 for the FAR 52.204–23 information collection; 9000–0199, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment—FAR sections affected: 52.204–26; 52.204–24; and 52.204–25; and 9000–0205, Implementation of Federal Acquisition Supply Chain Security Act (FASCSA) Orders—FAR Sections Affected: 52.204–29, 52.204–30. The changes under this proposed rule, if finalized, would revise these information collections and the paperwork burden previously approved by OMB. The public reporting burden for these collections of information will be consolidated under OMB Control No. 9000–0199 with the new title ''Federal Acquisition Regulation Part 40 Requirements'' and OMB Control No. 9000–0205 will be discontinued. Additionally, the public reporting burden for OMB Control No. 9000–0199 will be revised to add to the information collection burden to implement Section 203 in the Federal Acquisition Supply Chain Security Act of 2018, which is the title II of the ''Strengthening and Enhancing Cyber-capabilities by Utilizing Risk Exposure Technology Act'' (SECURE Technology Act), (Pub. L. 115–390); and E.O. 13556, Controlled Unclassified Information, that established the CUI Program and NARA's final rule at 81 FR 63324 on September 14, 2016, to implement the CUI requirements of E.O. 13556.

The revised annual burden is estimated as follows:

Respondents: 920,779.

Total Annual Responses: 946,075.

Total Burden Hours: 1,910,833.

C. Comments Regarding Paperwork Burden

The FAR Council will publish a separate first notice in accordance with the Paperwork Reduction Act seeking comments on the changes to these collections of information.

IX. Severability

If any portion (*e.g.,* section, clause, sentence) of this rule is held to be invalid or unenforceable facially, or as applied to any entity or circumstance, it shall be severable from the remainder of this rule, and shall not affect the remainder thereof, or its application to entities not similarly situated or to other dissimilar circumstances. The various portions of this rule are independent and serve distinct purposes. Even if one aspect were rendered invalid, the other benefits of the rule would still be applicable.

List of Subjects in 48 CFR Parts 1, 2, 4, 33, 39, 40, 52, and 53

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, OFPP, DoD, GSA, and NASA propose amending 48 CFR parts 1, 2, 4, 33, 39, 40, 52, and 53 as set forth below:

■ 1. Revise parts 1, 2, 4, 33, 39, and 40 to read as follows:

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

Sec.

1.000 Scope of part.

Subpart 1.1—Framework

1.101 Framework.
1.102 Guiding principles for the System.
1.103 Authority.
1.104 Publication and code arrangement.
1.105 OMB approval under the Paperwork Reduction Act.
1.106 Certifications.
1.107 FAR conventions.
1.108 Statutory acquisition–related dollar thresholds-adjustment for inflation.
1.109 Regulatory sunset.
1.110 Positive law codification.
1.111 Publication for public comment.

Subpart 1.2—Agency Acquisition Regulations

1.201 Policy.

Subpart 1.3—Deviations from the FAR

1.300 Scope of subpart.
1.301 Definition.
1.302 Policy.
1.303 Individual deviations.
1.304 Class deviations.
1.305 Deviations pertaining to treaties and executive agreements.

Subpart 1.4—Career Development, Contracting Authority, and Responsibilities

1.401 Contracting functions.
1.402 Contracting officers.
1.402–1 Authority.
1.402–2 Responsibilities.
1.403 Selecting, appointing, and terminating the appointment for contracting officers.
1.403–1 General.
1.403–2 Appointment.
1.403–3 Termination.
1.404 Contracting officer's representative.
1.405 Ratification of unauthorized commitments.

Subpart 1.5—Determination and Findings

1.500 Scope of subpart.
1.501 General.
1.502 Class determination and findings.
1.503 Content.
1.504 Replacement and modification.

Subpart 1.6—Forms

1.601 Definition.
1.602 Policy.

1.603 Computer generation.
1.604 Recommendations concerning forms.
1.605 Contract clause.

Authority: 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

1.000 Scope of part.

This part describes the framework and guiding principles for the Federal Acquisition Regulations System (the System).

Subpart 1.1—Framework

1.101 Framework.

(a) The System is a collection of acquisition regulations and guidance, and consists of the following:

(1) The Federal Acquisition Regulation (FAR), which is a single acquisition regulation applicable to all acquisitions, and all executive agencies. The FAR is issued as Chapter 1 of title 48 of the Code of Federal Regulations (CFR).

(2) Agency acquisition regulations that implement or supplement the FAR (see 48 CFR chapters 2 through 99).

(3) FAR companion guide, which contains nonregulatory guidance and best practices (available at *https://www.acquisition.gov/far-companion*).

(b) The System does not include internal guidance supplementing agency acquisition regulations described in 1.201(c).

1.102 Guiding principles for the System.

(a) The System will—

(1) Meet an agency's mission efficiently and effectively first;

(2) Ensure the most effective use of taxpayer dollars in ways that recognize the value of time, encourage innovation, promote merit, attract domestic sources' participation, satisfy the customer, and balance these interests and objectives;

(3) Maximize buying commercial products or commercial services rather than requiring Government-unique solutions;

(4) Award contracts to contractors who demonstrate a superior ability to perform;

(5) Promote competition and fair opportunity;

(6) Promote conducting business with integrity, fairness, and openness; and

(7) Delegate the authority to make decisions and accountability for those decisions to the lowest level within the System, consistent with law. The contracting officer must have the authority, to the maximum extent practicable and consistent with law, to determine how and when to apply rules, regulations, and policies on a specific contract.

(b)(1) Acquisition team members in the System include Government acquisition representatives from the technical, supply, sourcing, small business and procurement areas; the customers they support; and the contractors who deliver the products and services.

(2) The role of each acquisition team member in the System is to exercise personal initiative and sound business judgment to meet the agency's mission and manage risk.

(3) To continually promote innovation, the FAR encourages acquisition team members to pursue new approaches, and document successes and lessons learned.

(4) In this spirit, acquisition team members may assume that if a specific strategy, practice, policy, or procedure is in the best interests of the Government and is not addressed in the FAR, nor prohibited by law (statute or case law), Executive order or other regulation, then they are allowed to use the strategy, practice, policy, or procedure.

(5) Acquisition team members should work together as a team and make decisions within their area of responsibility.

(6) Acquisition team members can propose deviations from FAR regulations if the deviation would promote economy, efficiency, or innovation (see subpart 1.3).

(c) To achieve efficient operations, the System focuses on risk management rather than risk avoidance. Attempting to eliminate all risk is prohibitive in terms of cost to the taxpayer.

1.103 Authority.

(a) The System has been developed according to the requirements of 41 U.S.C. chapter 13, Acquisition Councils.

(b) The Federal Acquisition Regulatory Council, or FAR Council, consists of the Administrator for Federal Procurement Policy, the Secretary of Defense, the Administrator of General Services, and the Administrator of National Aeronautics and Space. The FAR is prepared and jointly issued by the FAR Council under their several statutory authorities.

1.104 Publication and code arrangement.

(a) Changes to the FAR are published in the daily issue of the **Federal Register**. A cumulative version of the FAR is published—

(1) In the CFR, in an annually updated version at *https://www.govinfo.gov/app/collection/cfr,* and as a daily updated version at *ecfr.gov*; and

(2) In an enhanced daily updated version available at *https://www.acquisition.gov/browse/index/far.*

(b) For further details on the arrangement and numbering of the FAR, including provisions and clauses and supplemental agency regulations, see *https://www.acquisition.gov.*

(c) Each numbered unit or segment (*i.e.,* part, subpart, section, etc.) of an agency acquisition regulation that is codified in the CFR must begin with the chapter number. However, the chapter number assigned to the FAR will not be included in the numbered units or segments of the FAR.

(d) Using the FAR coverage at 9.106–4(d) as a typical illustration, reference to the part would be ''FAR part 9'' outside the FAR and ''part 9'' within the FAR. Reference to the section would be ''FAR 9.106'' outside the FAR and ''9.106'' within the FAR.

(e) GSA is responsible for establishing and operating the FAR Regulatory Secretariat to publish and distribute the FAR through the CFR system.

1.105 Office of Management and Budget approval under the Paperwork Reduction Act.

The list of information collections and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget (OMB). They can be found at *https://www.acquisition.gov/FAR-PRA.*

1.106 Certifications.

Unless allowed under 41 U.S.C. 1304, the FAR must not require a certification from an offeror or contractor.

1.107 FAR conventions.

(a) *Words and terms.* (1) Definitions in part 2 apply to the entire regulation unless specifically defined in another part, subpart, section, provision, or clause. Words or terms defined in a specific part, subpart, section, provision, or clause have that meaning when used in that part, subpart, section, provision, or clause.

(2) Undefined words retain their common dictionary meaning.

(b) *Delegation of authority.* Each authority is delegable unless specifically stated otherwise.

(c) *Dollar thresholds.* (1) Unless otherwise specified, a specific dollar threshold is the final anticipated dollar value of the action, including the dollar value of all options.

(2) The final anticipated dollar value must be the highest final priced alternative to the Government, including the dollar value of all options, if the action establishes—

(i) A maximum quantity of supplies or services to be acquired;

(ii) A ceiling price; or

(iii) The final price to be based on future events.

(d) *Applying FAR changes to solicitations and contracts.* Unless otherwise specified—

(1) FAR changes apply to solicitations issued on or after the effective date of the change;

(2) Contracting officers may, at their discretion, include the FAR changes in solicitations issued before the effective date, provided award of the resulting contract(s) occurs on or after the effective date; and

(3) Contracting officers may, at their discretion, include the changes in any existing contract with appropriate consideration.

(e) *Citations.* When the FAR cites a statute, Executive order, OMB circular, Office of Federal Procurement Policy policy letter, or relevant portion of the CFR, the citation includes all applicable amendments, unless otherwise stated.

(f) *Required action.* When a sentence directs action, the contracting officer is responsible for the action, unless another party is expressly cited.

1.108 Statutory acquisition–related dollar thresholds-adjustment for inflation.

The FAR adjusts statutory acquisition-related dollar thresholds for inflation every 5 years. The statute at 41 U.S.C. 1908 establishes the calculation used to escalate the thresholds. The statute also identifies certain thresholds that must not be escalated. A matrix of the most recent calculations is available at *https://www.regulations.gov* (search FAR Case 2024–001, open the docket folder, and go to the supporting documents file).

1.109 Regulatory sunset.

(a) Consistent with Executive Order 14275 of April 15, 2025, Restoring Common Sense to Federal Procurement, the FAR Council will seek public input through rulemaking on sections, provisions and clauses of the FAR that are not explicitly required by statute or Executive order prior to their expiration.

(b)(1) Sections, provisions, and clauses in the FAR do not expire until removed from the FAR by rulemaking.

(2) Clauses in a contract remain in effect until removed by contract modification, unless—

(i) The clause by its terms specifies an expiration date; or

(ii)The FAR Council determines that it would be advantageous to contractors to no longer enforce the clause, and publishes a notice in the **Federal Register** providing that the clause is no longer enforceable.

1.110 Positive law codification.

Titles 40 and 41 of the United States Code were revised and reorganized, as a result of positive law codifications. A table identifying the original ''popular name'' of the public laws in those titles, and how they are referred to in the FAR, is available at *https://www.acquisition.gov/renamingpubliclaws.*

1.111 Publication for public comment.

Publication of a procurement policy, regulation, procedure or form in the **Federal Register** must be consistent with 41 U.S.C. 1707.

Subpart 1.2—Agency Acquisition Regulations

1.201 Policy.

(a)(1) An agency head may issue agency acquisition regulations that are necessary to implement the FAR, or to supplement the FAR to satisfy a specific agency need, according to 41 U.S.C. 1303(a)(2). When creating supplemental provisions and clauses, including those for suborganizational or specific contracting office needs, use the sequential numbers starting at 70.

(2) Agency acquisition regulations must not—

(i) Unnecessarily repeat, paraphrase, or otherwise restate material contained in the FAR or higher-level agency acquisition regulations; or

(ii) Conflict or be inconsistent with the FAR, except as required by law or as provided in subpart 1.3.

(b)(1) If required by 41 U.S.C. 1707, agencies must publish their acquisition regulations for comment in the **Federal Register**. However, publication is not required for issuances that merely implement or supplement higher level issuances that have previously undergone the public comment process, unless such implementation or supplementation results in an additional significant cost or administrative impact on contractors or offerors or effect beyond the internal operating procedures of the issuing organization.

(2) Agencies must comply with other applicable statutes, (*e.g.,* the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) and the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*)).

(c) An agency head may authorize internal agency guidance at any organizational level (*e.g.,* designations and delegations of authority, assignments of responsibilities, work-flow procedures, and internal reporting requirements). Internal agency guidance does not need to be published in the **Federal Register** for comment, unless the agency guidance has a significant effect beyond the internal operating procedures of the agency or creates an additional significant cost or administrative impact on contractors or offerors.

Subpart 1.3—Deviations from the FAR

1.300 Scope of subpart.

(a) This subpart prescribes the policies and procedures for authorizing deviations from the FAR.

(b) Exceptions regarding the use of forms prescribed by the FAR are covered in 1.602(d).

1.301 Definition.

Deviation means one or any combination of the following:

(1) Issuing or using a policy, procedure, solicitation provision, contract clause, method, or practice of conducting acquisition actions of any kind at any stage of the acquisition process that is inconsistent with the FAR.

(2) Leaving out any solicitation provision or contract clause when its prescription requires including it.

(3) Using any solicitation provision or contract clause with modified or alternate language that is not authorized by the FAR (see definition of ''modification'' in 52.101(a)).

(4) Using a solicitation provision or contract clause prescribed by the FAR on a substantially as follows or substantially the same as basis, if such use is inconsistent with the intent, principle, or substance of the prescription or related coverage on the subject matter in the FAR.

(5) Authorizing lesser or greater limitations on the use of any solicitation provision, contract clause, policy, or procedure required by the FAR.

(6) Issuing policies or procedures that control contractual relationships that are not incorporated into agency acquisition regulations according to 1.201(a).

1.302 Policy.

(a) Unless not allowed by law, Executive order, or regulation, agencies may deviate from the FAR as specified in this subpart when necessary to meet an agency's specific needs.

(b) Refer to 31.004 for instructions on deviating from part 31, Contract Cost Principles and Procedures.

(c) Agencies are not authorized to deviate from 30.201–3 and 30.201–4, or the requirements of the Cost Accounting Standards Board (CASB) rules and regulations (48 CFR chapter 99). Refer to 30.201–5 for instructions on deviating from the Cost Accounting Standards.

1.303 Individual deviations.

Individual deviations affect only one contract action. The agency head may

authorize individual deviations. The contracting officer must document the justification and agency approval in the contract file.

1.304 Class deviations.

(a) Class deviations affect more than one contract action. A deviation for any solicitation that will result in multiple contract awards will need to be done as a class deviation. When an agency knows that it will require a class deviation on a permanent basis, it may develop and propose a FAR revision.

(b) Agency heads may authorize class deviations from the FAR. Before they do so, class deviations must be approved by the FAR Council, except where required to implement agency-specific executive or statutory direction. Agencies requesting approval must send the proposed class deviation to the FAR Secretariat at *GSARegSec@gsa.gov.*

(c) The FAR Council will review and provide a decision to the requesting agency within 5 business days, unless the request is urgent. The FAR Council will decide urgent requests within 24 hours of receipt of the request. Agencies may proceed if they do not receive responses within these time frames.

(d) Agencies must email a copy of each agency-approved class deviation to the FAR Secretariat at *GSARegSec@gsa.gov.*

(e) The Administrator for Federal Procurement Policy may require the FAR Council to issue deviation guidance to promote uniformity.

1.305 Deviations pertaining to treaties and executive agreements.

(a) Deviations from the FAR that are necessary to comply with a treaty to which the United States is a party are authorized, unless the deviation would be inconsistent with FAR coverage based on a law enacted after the treaty's execution.

(b) Deviations from the FAR that are necessary to comply with an executive agreement (*i.e.,* a Government-to-Government agreement, including agreements with international organizations, to which the United States is a party) are authorized unless the deviation would be inconsistent with FAR coverage based on law.

Subpart 1.4—Career Development, Contracting Authority, and Responsibilities

1.401 Contracting functions.

The agency head may establish contracting activities and delegate contracting functions to the contracting activities. Per 41 U.S.C. 3102(b), agency heads may mutually agree to—

(a) Delegate contracting functions and responsibilities from one agency to another; and

(b) Create joint or combined offices to exercise acquisition functions and responsibilities.

1.402 Contracting officers.

1.402–1 Authority.

(a) Only contracting officers may sign, administer, or terminate contracts on behalf of the Government. Contracting officers may bind the Government based on the authority delegated to them. The appointing authority must provide the contracting officer with clear instructions in writing about what they can and cannot do.

(b) Contracting officers have wide latitude to exercise business judgment.

1.402–2 Responsibilities.

Contracting officers are responsible for—

(a) Before signing a contract—

(1) Ensuring it meets all requirements of law, Executive orders, regulations, and all other applicable procedures, including clearances and approvals; and

(2) Ensuring funds are available for obligation;

(b) Ensuring compliance with the contract terms;

(c) Ensuring offerors and contractors receive impartial, fair, and equitable treatment; and

(d) Requesting and considering the advice of specialists in audit, law, engineering, information security, transportation, and other fields, as appropriate.

1.403 Selecting, appointing, and terminating the appointment for contracting officers.

1.403–1 General.

(a) 41 U.S.C. 1702(b)(3)(G) requires agency heads to establish and maintain an acquisition career management program, which includes a system to select, appoint, and terminate contracting officers' appointments.

(b) Agency heads or their designees may select and appoint contracting officers and terminate their appointments.

(c) These selections and appointments must be consistent with OFPP standards for skill-based training in performing contracting and purchasing duties as published in OFPP Policy Letter No. 05–01, Developing and Managing the Acquisition Workforce, April 15, 2005, and OFPP Memo dated January 19, 2023, Federal Acquisition Certification in Contracting (FAC–C) Modernization (see *https://www.fai.gov/certification/fac-c/contracting-fac-c/fac-c-policy-documents*).

1.403–2 Appointment.

(a)(1) Contracting officers must be appointed in writing, using a Standard Form (SF) 1402, Certificate of Appointment. The certificate must state any limitations placed on the contracting officer's scope of authority, other than limitations contained in applicable law or regulation.

(2) Appointing officials must keep copies of all current appointments.

(b)(1) Agency heads are encouraged to delegate micro-purchase authority to individuals who are employees of an executive agency or members of the Armed Forces of the United States who will use the supplies or services being purchased.

(2) Agency heads must appoint these individuals in writing but are not required to use an SF 1402.

1.403–3 Termination.

(a) Agency heads must terminate a contracting officer appointment by letter, unless the Certificate of Appointment contains other provisions for automatic termination.

(b) Terminations may occur for reasons such as reassignment, termination of employment, or unsatisfactory performance. Agency heads cannot terminate a contracting officer appointment retroactively.

1.404 Contracting officer's representative.

(a) *Designation.* (1) The contracting officer's representative (COR) must be nominated either by the requiring activity or according to agency procedures. The contracting officer designates and authorizes a COR in writing and according to agency procedures. See 7.104(b)(6) which directs the COR designation as early as possible.

(2) The COR designation must—

(i) Specify the extent of the COR's authority to act on behalf of the contracting officer;

(ii) Specify the period covered by the designation;

(iii) State the authority cannot be delegated further; and

(iv) State that the COR may be personally liable for unauthorized acts.

(3)(i) Contracting officers may not delegate responsibilities to a COR that are delegated to a contract administration office under 42.202. Contracting officers may assign the COR other duties described at 42.302.

(ii) The contracting officer must communicate the COR's duties clearly and in writing.

(4) The contracting officer must send copies of the COR's designation to the contractor and the contract administration office.

(b) *Types of contracts and orders.* The contracting officer must assign a COR to all contracts and orders other than firm fixed-price contracts and orders. For firm fixed-price contracts and orders, the contracting officer may assign a COR.

(c) *COR Qualifications.* The COR—

(1) Must be a Government employee, unless otherwise authorized in agency regulations;

(2) Must be certified and must maintain certification. The certification must align with the current OMB memorandum on the Federal Acquisition Certification for Contracting Officer Representatives (FAC–COR) guidance, or for DoD, according to DoD policy guidance; and

(3) Must be qualified by training and experience.

(d) *Lack of authority.* A COR has no authority to make any commitments or changes that affect price, quality, quantity, delivery, or other terms and conditions of the contract. The COR must not direct the contractor or its subcontractors to operate in conflict with the contract terms and conditions.

(e) *Responsibilities.*

(1) A COR assists in the technical monitoring or administration of a contract.

(2) The COR must maintain a file for each assigned contract. The file must include, at a minimum—

(i) A copy of the contracting officer's letter of designation and other documents describing the COR's duties and responsibilities; and

(ii) Documentation of COR actions taken according to the delegation of authority.

1.405 Ratification of unauthorized commitments.

(a) *Definitions.*

As used in this section—

Ratification means the act of approving an unauthorized commitment by an official who has the authority to do so.

Unauthorized commitment means an agreement that is not binding solely because the Government representative who made it lacked the authority to enter into that agreement on behalf of the Government.

(b) *Policy.* (1) Agencies should take actions to avoid the need for ratifications.

(2)(i) The head of the contracting activity may ratify an unauthorized commitment, subject to the criteria in paragraph (c).

(ii) Agencies may delegate the authority to ratify an unauthorized commitment. Agencies cannot delegate this authority below the level of the chief of the contracting office.

(3) Unauthorized commitments which involve claims subject to resolution under 41 U.S.C. chapter 71, Contract Disputes, should be processed under subpart 33.2, Disputes and Appeals.

(c) *Criteria.* Agencies may use the authority in paragraph (b)(2) of this section only when—

(1) The Government accepted supplies or services from the contractor, or the Government received a benefit from performance of the unauthorized commitment;

(2) The ratifying official has the authority to enter into a contractual commitment;

(3) The resulting contract would otherwise have been proper if made by an authorized contracting officer;

(4) The contracting officer reviewing the unauthorized commitment determines the price to be fair and reasonable;

(5) The contracting officer recommends payment, and legal counsel concurs with the recommendation, unless agency procedures expressly do not require legal counsel concurrence; and

(6) Funds are available and were available at the time the unauthorized commitment was made.

(d) *Nonratifiable commitments.* Actions that do not meet the criteria in paragraph (c) of this section may be subject to resolution according to 31 U.S.C. 3702, or as authorized by subpart 50.1.

Subpart 1.5—Determination and Findings

1.500 Scope of subpart.

This subpart prescribes general policies and procedures for using a determination and findings (D&F).

1.501 General.

(a)(1) Ordinarily, a D&F applies to an individual contract action. Unless otherwise prohibited, agencies may execute class D&Fs for classes of contract actions (see 1.502). The approval granted by a D&F is restricted to the proposed contract action(s) reasonably described in that D&F. D&Fs may provide for a reasonable degree of flexibility.

(2) Unless the D&F states otherwise, reasonable variations in estimated quantities or prices are permitted.

(b) When an option is anticipated, the D&F must state the approximate quantity to be awarded at first and the extent of the increase the option permits.

1.502 Class determination and findings.

(a) A class D&F provides authority for a class of contract actions. A class may consist of contract actions for the same or related supplies, services, or other contract actions that require essentially identical justification.

(b)(1) The findings in a class D&F must fully support the proposed action either for the class as a whole or for each action. A class D&F must be for a specified period, with the expiration date stated in the document.

(2) When a solicitation has been provided to prospective offerors before the expiration date, the authority under the D&F will continue until award of the contract(s) resulting from that solicitation.

(c) The contracting officer must ensure that individual actions taken under the authority of a class D&F are within the scope of the D&F.

1.503 Content.

At a minimum, each D&F must include the following information:

(a) Identification of the agency and the contracting activity and specific identification of the document as a *Determination and Findings.*

(b) Description of the action being approved.

(c) Citation to the appropriate statute or regulation upon which the D&F is based.

(d) Findings that detail the particular circumstances, facts, or reasoning essential to support the determination. Necessary supporting documentation must come from appropriate requirements and technical personnel.

(e) A determination based on the findings that the proposed action is justified under the applicable statute or regulation.

(f) For class D&Fs, an expiration date.

(g) The signature of the official authorized to sign the D&F and the date signed.

1.504 Replacement and modification.

(a) If a D&F is replaced by another D&F, that action will not invalidate any action taken under the original D&F before the date of its replacement.

(b) The contracting officer is not required to cancel the solicitation if the modified D&F supports the contract action.

Subpart 1.6—Forms

1.601 Definition.

As used in this subpart—

Exception means an approved departure from the established design, content, or conditions for use of any standard form.

1.602 Policy.

(a) *Requirements.* The requirements for using the forms are contained in

parts 1 through 52, where the subject matter applicable to each form is addressed.

(b) *Forms list.* A list of the standard forms, optional forms (OF), and agency forms specified by the FAR for use in acquisitions is available at *https://acquisition.gov/FARforms.* The list identifies the forms' current edition location, FAR part requirement, and prescribing agency.

(c) *Continuation sheets.* Standard forms prescribed in the FAR may be continued on plain paper of similar specification, or specially constructed continuation sheets (*i.e.,* OF 336). Continuation sheets must include both the reference number of the document being continued and the serial page number in the upper right hand corner.

(d) *Exceptions.* Agencies must obtain an exception from—

(1) The FAR Council for standard forms prescribed by the FAR; or

(2) The prescribing agency for agency-specific forms.

1.603 Computer generation.

The forms prescribed in the FAR may be computer generated without obtaining an exception (see 1.602(d)), provided that—

(a) There is no change to the name, content, or sequence of the data elements, and the form carries its number and edition date; or

(b) The form is in an electronic format covered by the American National Standards Institute X12 Standards published by the Accredited Standards Committee X12 on Electronic Data Interchange or a format that can be translated into one of those standards.

1.604 Recommendations concerning forms.

(a) *Public.* FAR users may recommend new forms or revisions, elimination, or consolidation of existing forms identified on the forms list (see 1.602(b)). These recommendations should be submitted to the FAR Secretariat.

(b) *Government.* Recommendations from within an executive agency must be submitted to the Civilian Agency Acquisition Council or the Defense Acquisition Regulations Council in accordance with agency procedures.

1.605 Contract clause.

Insert the clause at 52.201–2, Computer Generated Forms, in solicitations and contracts, including those for commercial products and commercial services, that require the contractor to submit data on standard forms or optional forms; and, unless prohibited by agency regulations, forms prescribed by agency supplements.

PART 2—DEFINITIONS AND ACRONYMS

Sec.

2.000 Scope of part.

Subpart 2.1—Definitions, Acronyms, and Abbreviations

2.101 Definitions.
2.102 Acronyms and abbreviations.
2.103 Contract clause.

Authority: 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

2.000 Scope of part.

(a) This part—

(1) Defines words and terms that are frequently used in the FAR);

(2) Provides cross-references to other definitions in the FAR of the same word or term; and

(3) Provides for the incorporation of these definitions in solicitations and contracts by reference.

(b) Other parts, subparts, and sections of this regulation (48 CFR chapter 1) may define other words or terms and those definitions only apply to the part, subpart, or section where the word or term is defined.

Subpart 2.1—Definitions, Acronyms, and Abbreviations

2.101 Definitions.

A word or a term, defined in this section, has the same meaning throughout the FAR unless the context in which the word or term is used clearly requires a different meaning or another FAR part, subpart, or section provides a different definition for the particular part or portion of the part. If a word or term that is defined in this section is defined differently in another part, subpart, or section of this chapter, the definition in this section includes a cross-reference to the other definitions and that part, subpart, or section applies to the word or term when used in that part, subpart, or section.

Acquisition means the acquiring by contract with appropriated funds of supplies or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated. Acquisition begins at the point when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract.

Acquisition planning means the process by which the efforts of all personnel responsible for an acquisition are coordinated and integrated through a comprehensive plan for fulfilling the agency need in a timely manner and at a reasonable cost. It includes developing the overall strategy for managing the acquisition.

Adequate evidence means information sufficient to support the reasonable belief that a particular act or omission has occurred.

Advisory and assistance services (A&AS) means those services provided under contract by nongovernmental sources to support or improve: organizational policy development; decision-making; management and administration; program and/or project management and administration; or R&D activities. It can also mean the furnishing of professional advice or assistance rendered to improve the effectiveness of Federal management processes or procedures (including those of an engineering and technical nature). In rendering the foregoing services, outputs may take the form of information, advice, opinions, alternatives, analyses, evaluations, recommendations, training and the day-to-day aid of support personnel needed for the successful performance of ongoing Federal operations. All advisory and assistance services are classified in one of the following definitional subdivisions:

(1) Management and professional support services, *i.e.,* contractual services that provide assistance, advice or training for the efficient and effective management and operation of organizations, activities (including management and support services for R&D activities), or systems. These services are normally closely related to the basic responsibilities and mission of the agency originating the requirement for the acquisition of services by contract. Included are efforts that support or contribute to improved organization of program management, logistics management, project monitoring and reporting, data collection, budgeting, accounting, performance auditing, and administrative technical support for conferences and training programs.

(2) Studies, analyses and evaluations, *i.e.,* contracted services that provide organized, analytical assessments/evaluations in support of policy development, decision-making, management, or administration. Included are studies in support of R&D activities. Also included are

acquisitions of models, methodologies, and related software supporting studies, analyses or evaluations.

(3) Engineering and technical services, *i.e.,* contractual services used to support the program office during the acquisition cycle by providing such services as systems engineering and technical direction (see 9.505–1(b)) to ensure the effective operation and maintenance of a weapon system or major system as defined in OMB Circular No. A–109 or to provide direct support of a weapon system that is essential to research, development, production, operation or maintenance of the system.

Affiliates means associated business concerns or individuals if, directly or indirectly either one controls or can control the other; or third party controls or can control both, except as follows:

(1) For use in subpart 9.4, see the definition at 9.403.

(2) For use of affiliates in size determinations, see the definition of ''small business concern'' in this section.

Agency head or *head of the agency* means the Secretary, Attorney General, Administrator, Governor, Chairperson, or other chief official of an executive agency, unless otherwise indicated, including any deputy or assistant chief official of an executive agency.

Alternate means a substantive variation of a basic provision or clause prescribed for use in a defined circumstance. It adds wording to, deletes wording from, or substitutes specified wording for a portion of the basic provision or clause. The alternate version of a provision or clause is the basic provision or clause as changed by the addition, deletion, or substitution (see 52.105(a)).

Architect-engineer services, as defined in 40 U.S.C. 1102, means—

(1) Professional services of an architectural or engineering nature, as defined by State law, if applicable, that are required to be performed or approved by a person licensed, registered, or certified to provide those services;

(2) Professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and

(3) Those other professional services of an architectural or engineering nature, or incidental services, that members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.

Assignment of claims means the transfer or making over by the contractor to a bank, trust company, or other financing institution, as security for a loan to the contractor, of its right to be paid by the Government for contract performance.

Assisted acquisition means a type of interagency acquisition where a servicing agency performs acquisition activities on a requesting agency's behalf, such as awarding and administering a contract, task order, or delivery order.

Basic research means that research directed toward increasing knowledge in science. The primary aim of basic research is a fuller knowledge or understanding of the subject under study, rather than any practical application of that knowledge.

Best value means the expected outcome of an acquisition that, in the Government's estimation, provides the greatest overall benefit in response to the requirement.

Bid sample means a product sample required to be submitted by an offeror to show characteristics of the offered products that cannot adequately be described by specifications, purchase descriptions, or the solicitation (*e.g.,* balance, facility of use, or pattern).

Biobased product means a product determined by the U.S. Department of Agriculture to be a commercial product or industrial product (other than food or feed) that is composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials, or that is an intermediate ingredient or feedstock. The term includes, with respect to forestry materials, forest products that meet biobased content requirements, notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging. (7 U.S.C. 8101) (7 CFR 4270.2).

Broad agency announcement (BAA) means a general announcement of an agency's research interest including criteria for selecting proposals and soliciting the participation of all offerors capable of satisfying the Government's needs.

Building or work means construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include, without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, dredging, shoring, rehabilitation and reactivation of plants, scaffolding, drilling, blasting, excavating, clearing, and landscaping. The manufacture or furnishing of materials, articles, supplies, or equipment (whether or not a Federal or State agency acquires title to such materials, articles, supplies, or equipment during the course of the manufacture or furnishing, or owns the materials from which they are manufactured or furnished) is not ''building'' or ''work'' within the meaning of this definition unless conducted in connection with and at the site of such building or work as is described in the foregoing sentence, or under the United States Housing Act of 1937 and the Housing Act of 1949 in the construction or development of the project.

Bundling—

(1) Means a subset of consolidation that combines two or more requirements for supplies or services, previously provided or performed under separate smaller contracts (see paragraph (2) of this definition), into a solicitation for a single contract, a multiple-award contract, or a task or delivery order that is likely to be unsuitable for award to a small business concern (even if it is suitable for award to a small business with a Small Business Teaming Arrangement) due to—

(i) The diversity, size, or specialized nature of the elements of the performance specified;

(ii) The aggregate dollar value of the anticipated award;

(iii) The geographical dispersion of the contract performance sites; or

(iv) Any combination of the factors described in paragraphs (1)(i), (ii), and (iii) of this definition.

(2) ''Separate smaller contract'' as used in this definition, means a contract that has been performed by one or more small business concerns or that was suitable for award to one or more small business concerns.

Business unit means any segment of an organization, or an entire business organization that is not divided into segments.

Certified cost or pricing data means ''cost or pricing data'' that were required to be submitted in accordance with FAR 15.403–3 and have been certified, or are required to be certified, in accordance with 15.403–4. This certification states that, to the best of the person's knowledge and belief, the cost or pricing data are accurate, complete, and current as of a date certain before contract award. Cost or pricing data are required to be certified in certain procurements (10 U.S.C. chapter 271 and 41 U.S.C. chapter 35).

Change-of-name agreement means a legal instrument executed by the contractor and the Government that recognizes the legal change of name of the contractor without disturbing the original contractual rights and obligations of the parties.

Change order means a written order, signed by the contracting officer, directing the contractor to make a change that the Changes clause authorizes the contracting officer to order without the contractor's consent.

Chief Acquisition Officer means an executive level acquisition official responsible for agency performance of acquisition activities and acquisition programs created pursuant to 41 U.S.C. 1702.

Chief of mission means the principal officer in charge of a diplomatic mission of the United States or of a United States office abroad which is designated by the Secretary of State as diplomatic in nature, including any individual assigned under section 502(c) of the Foreign Service Act of 1980 (Public Law 96–465) to be temporarily in charge of such a mission or office.

Claim means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. However, a written demand or written assertion by the contractor seeking the payment of money exceeding $100,000 is not a claim under 41 U.S.C. chapter 71, Contract Disputes, until certified as required by the statute. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim, by written notice to the contracting officer, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

Classified acquisition means an acquisition in which offerors must have access to classified information to properly submit an offer or quotation, to understand the performance requirements, or to perform the contract.

Classified contract means any contract in which the contractor or its employees must have access to classified information during contract performance. A contract may be a classified contract even though the contract document itself is unclassified.

Classified information means any knowledge that can be communicated or any documentary material, regardless of its physical form or characteristics, that—

(1)(i) Is owned by, is produced by or for, or is under the control of the United States Government; or

(ii) Has been classified by the Department of Energy as privately generated restricted data following the procedures in 10 CFR 1045.21; and

(2) Must be protected against unauthorized disclosure according to Executive Order 12958, Classified National Security Information, April 17, 1995, or classified in accordance with the Atomic Energy Act of 1954.

Cognizant Federal agency means the Federal agency that, on behalf of all Federal agencies, is responsible for establishing final indirect cost rates and forward pricing rates, if applicable, and administering cost accounting standards for all contracts in a business unit.

Combatant commander means the commander of a unified or specified combatant command established in accordance with 10 U.S.C. 161.

Commercial and Government Entity (CAGE) code means—

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity by unique location; or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

Commercial component means any component that is a commercial product.

Commercial computer software means software developed or regularly used for nongovernmental purposes which—

(1) Has been sold, leased, or licensed to the public;

(2) Has been offered for sale, lease, or license to the public;

(3) Has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this contract; or

(4) Satisfies a criterion expressed in paragraph (1), (2), or (3) of this definition and would require only minor modification to meet the requirements of this contract.

Commercial product means—

(1) A product, other than real property, that is of a type customarily used by the general public or by nongovernmental entities for purposes other than governmental purposes (*i.e.,* purposes that are not unique to a government), and—

(i) Has been sold, leased, or licensed to the general public; or

(ii) Has been offered for sale, lease, or license to the general public;

(2) A product that evolved from a product described in paragraph (1) of this definition through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Government solicitation;

(3) A product that would satisfy a criterion expressed in paragraph (1) or (2) of this definition, except for—

(i) Modifications of a type customarily available in the commercial marketplace; or

(ii) Minor modifications of a type not customarily available in the commercial marketplace made to meet Federal Government requirements. A minor modification does not significantly alter the function or essential physical characteristics of an item or component, or change the purpose of a process.

(4) Any combination of products meeting the requirements of paragraph (1), (2), or (3) of this definition that are of a type customarily combined and sold in combination to the general public;

(5) A product, or combination of products, referred to in paragraphs (1) through (4) of this definition, even though the product, or combination of products, is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor; or

(6) A nondevelopmental item-developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local governments or to multiple foreign governments.

Commercial service means—

(1) Installation services, maintenance services, repair services, training services, and other services if—

(i) Such services are procured for support of a commercial product, as defined in this section, regardless of whether such services are provided by the same source or at the same time as the commercial product; and

(ii) The source of such services provides similar services at the same time to the general public under terms and conditions similar to those offered to the Government;

(2) Services, including construction, of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed or specific outcomes to be achieved and under standard commercial terms and conditions. For purposes of these services—

(i) *Catalog price* means a price included in a catalog, price list, schedule, or other form that the manufacturer or vendor regularly maintains, customers can inspect, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public; and

(ii) *Market prices* means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors; or

(3) A service referred to in paragraph (1) or (2) of this definition, even though the service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

Commercially available off-the-shelf (COTS) item—

(1) Means any item of supply that is—

(i) A commercial product (as defined in paragraph (1) of the definition of ''commercial product'' in this section);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government without modification, in the same form in which it is sold in the commercial marketplace; but

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

Common item means material that is common to the applicable Government contract and the contractor's other work, except that for use in the clause at 52.246–26, see the definition in paragraph (a) of that clause.

Component means any item supplied to the Government as part of an end item or of another component, except that for use in—

(1) Part 25, see the definition in 25.002;

(2) 52.225–1 and 52.225–3, see the definition in 52.225–1(a) and 52.225–3(a);

(3) 52.225–9 and 52.225–11, see the definition in 52.225–9(a) and 52.225–11(a); and

(4) 52.225–21 and 52.225–23, see the definition in 52.225–21(a) and 52.225–23(a).

Computer database or *database* means a collection of recorded information in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

Computer software means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer databases or computer software documentation.

Computer software documentation means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

Consent to subcontract means the contracting officer's written consent for the prime contractor to enter into a particular subcontract.

Consolidation or consolidated requirement—

(1) Means a solicitation for a single contract, a multiple-award contract, a task order, or a delivery order to satisfy—

(i) Two or more requirements of the Federal agency for supplies or services that have been provided to or performed for the Federal agency under two or more separate contracts, each of which was lower in cost than the total cost of the contract for which offers are solicited, the total cost of which exceeds $2 million (including options); or

(ii) Requirements of the Federal agency for construction projects to be performed at two or more discrete sites.

(2) *Separate contract* as used in this definition, means a contract that has been performed by any business, including small and other than small business concerns.

Construction means construction, alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other real property. For purposes of this definition, the terms ''buildings, structures, or other real property'' include, but are not limited to, improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, cemeteries, pumping stations, railways, airport facilities, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, and channels. Construction does not include the manufacture, production, furnishing, construction, alteration, repair, processing, or assembling of vessels, aircraft, or other kinds of personal property (except that for use in subpart 22.5, see the definition at 22.501).

Contiguous United States (CONUS) means the 48 contiguous States and the District of Columbia.

Contingency operation (10 U.S.C. 101(a)(13)) means a military operation that—

(1) Is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(2) Results in the call or order to, or retention on, active duty of members of the uniformed services under sections 688, 12301(a), 12302, 12304, 12304a, 12305, or 12406 of title 10 of the United States Code, Chapter 13 of title 10 of the United States Code, and section 3713 of title 14 of the United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress.

Continued portion of the contract means the portion of a contract that the contractor must continue to perform following a partial termination.

Contract means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301, *et seq.* For discussion of various types of contracts, see part 16.

Contract administration office (CAO) means an office that performs—

(1) Assigned postaward functions related to the administration of contracts; and

(2) Assigned preaward functions.

Contract clause or *clause* means a term or condition used in contracts or in both solicitations and contracts, and applying after contract award or both before and after award.

Contract modification means any written change in the terms of a contract (see 43.203).

Contracting means purchasing, renting, leasing, or otherwise obtaining supplies or services from nonfederal sources. Contracting includes description (but not determination) of supplies and services required, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration. It does not include making grants or cooperative agreements.

Contracting activity means an element of an agency designated by the agency head and delegated broad authority regarding acquisition functions.

Contracting office means an office that awards or executes a contract for supplies or services and performs postaward functions not assigned to a contract administration office (except for use in part 42, see 42.1401).

Contracting officer means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the contracting officer acting within the limits of their authority as delegated by the contracting officer. ''Administrative contracting officer (ACO)'' refers to a contracting officer who is administering contracts. ''Termination contracting officer (TCO)'' refers to a contracting officer who is settling terminated contracts. A single contracting officer may be responsible for duties in any or all of these areas. Reference in this regulation (48 CFR chapter 1) to administrative contracting officer or termination contracting officer does not—

(1) Require that a duty be performed at a particular office or activity; or

(2) Restrict in any way a contracting officer in the performance of any duty properly assigned.

Contracting officer's representative (COR) means an individual, including a contracting officer's technical representative (COTR), designated and authorized in writing by the contracting officer to perform specific technical or administrative functions.

Controlled unclassified information (CUI) means information that the Government creates or possesses, or that an entity creates or possesses for or on behalf of the Government, that a law, regulation, or Governmentwide policy requires or permits an agency to handle using safeguarding or dissemination controls. CUI does not include—

(1) Information that a Contractor possesses in its own system that did not come from, or was not created or possessed by or for, an executive branch agency or an entity acting for an agency (see 32 CFR 2002.4); or

(2) Federally-funded basic and applied research at colleges, universities, and laboratories in accordance with National Security Decision Directive 189; or

(3) Information a Contractor creates or possesses that a law, regulation, or Governmentwide policy does not specifically require the Contractor to handle using safeguarding or dissemination controls.

Conviction means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere. For use in subpart 9.4, see the definition at 9.403. For use in subpart 26.5, see the definition at 26.502.

Cost or pricing data (10 U.S.C. 3701(1) and 41 U.S.C. chapter 35) means all facts that, as of the date of price agreement, or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on price, prudent buyers and sellers would reasonably expect to affect price negotiations significantly. Cost or pricing data are factual, not judgmental; and are verifiable. While they do not indicate the accuracy of the prospective contractor's judgment about estimated future costs or projections, they do include the data forming the basis for that judgment. Cost or pricing data are more than historical accounting data; they are all the facts that can be reasonably expected to contribute to the soundness of estimates of future costs and to the validity of determinations of costs already incurred. They also include, but are not limited to, such factors as—

(1) Vendor quotations;

(2) Nonrecurring costs;

(3) Information on changes in production methods and in production or purchasing volume;

(4) Data supporting projections of business prospects and objectives and related operations costs;

(5) Unit-cost trends such as those associated with labor efficiency;

(6) Make-or-buy decisions;

(7) Estimated resources to attain business goals; and

(8) Information on management decisions that could have a significant bearing on costs.

Cost realism means that the costs in an offeror's proposal—

(1) Are realistic for the work to be performed;

(2) Reflect a clear understanding of the requirements; and

(3) Are consistent with the various elements of the offeror's technical proposal.

Cost sharing means an explicit arrangement under which the contractor bears some of the burden of reasonable, allocable, and allowable contract cost.

Covered territory business, as defined at 15 U.S.C. 632(ff) and 13 CFR 125.1, means a small business concern that has its principal office located in the United States Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands.

Customs territory of the United States means the 50 States, the District of Columbia, and Puerto Rico.

Data other than certified cost or pricing data means pricing data, cost data, and judgmental information necessary for the contracting officer to determine a fair and reasonable price or to determine cost realism. Such data may include the identical types of data as certified cost or pricing data, consistent with Table 15–1 of 15.408, but without the certification. The data may also include, for example, sales data and any information reasonably required to explain the offeror's estimating process, including, but not limited to—

(1) The judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data; and

(2) The nature and amount of any contingencies included in the proposed price.

Day means, unless otherwise specified, a calendar day.

Debarment means action taken by a suspending and debarring official under 9.406 to exclude a contractor from Government contracting and Government-approved subcontracting for a reasonable, specified period; a contractor that is ''debarred'' is excluded.

Delivery order means an order for supplies placed against an established contract or with Government sources.

Depreciation means a charge to current operations that distributes the cost of a tangible capital asset, less estimated residual value, over the estimated useful life of the asset in a

systematic and logical manner. It does not involve a process of valuation. Useful life refers to the prospective period of economic usefulness in a particular contractor's operations as distinguished from physical life; it is evidenced by the actual or estimated retirement and replacement practice of the contractor.

Descriptive literature means information provided by an offeror, such as cuts, illustrations, drawings, and brochures, that shows a product's characteristics or construction of a product or explains its operation. The term includes only that information needed to evaluate the acceptability of the product and excludes other information for operating or maintaining the product.

Determination and findings (D&F) means a special form of written approval by an authorized official that is required by statute or regulation before taking certain contract actions. The *determination* is a conclusion or decision supported by the *findings.* The findings are statements of fact or reasons essential to support the determination and must cover each requirement of the statute or regulation.

Direct acquisition means a type of interagency acquisition where a requesting agency places an order directly against a servicing agency's indefinite-delivery contract. The servicing agency manages the indefinite-delivery contract but does not participate in the placement or administration of an order.

Direct cost means any cost that is identified specifically with a particular final cost objective. Direct costs are not limited to items that are incorporated in the end product as material or labor. Costs identified specifically with a contract are direct costs of that contract. All costs identified specifically with other final cost objectives of the contractor are direct costs of those cost objectives.

Drug-free workplace means the site(s) for the performance of work done by the contractor in connection with a specific contract where employees of the contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

Earned value management system (EVMS) means a project management tool that effectively integrates the project scope of work with cost, schedule and performance elements for optimum project planning and control. The qualities and operating characteristics of an earned value management system are described in Electronic Industries Alliance Standard 748 (EIA–748), Earned Value Management Systems. (See OMB Circular A–11, Part 7.)

Economically disadvantaged women-owned small business (EDWOSB) concern—(see definition of *Women-Owned Small Business (WOSB) Program* in this section).

Effective date of termination means the date on which the notice of termination requires the contractor to stop performance under the contract. If the contractor receives the termination notice after the date fixed for termination, then the effective date of termination means the date the contractor receives the notice.

Electronic commerce means electronic techniques for accomplishing business transactions including electronic mail or messaging, World Wide Web technology, electronic bulletin boards, purchase cards, electronic funds transfer, and electronic data interchange 41 U.S.C. 2301.

Electronic data interchange means a technique for electronically transferring and storing formatted information between computers utilizing established and published formats and codes, as authorized by the applicable Federal Information Processing Standards.

Electronic Funds Transfer (EFT) means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes Automated Clearing House transfers, Fedwire transfers, and transfers made at automatic teller machines and point-of-sale terminals. For purposes of compliance with 31 U.S.C. 3332 and implementing regulations at 31 CFR part 208, the term ''electronic funds transfer'' includes a Governmentwide commercial purchase card transaction.

Electronic Funds Transfer (EFT) indicator means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management records for identifying alternative EFT accounts (see subpart 32.11) for the same entity.

Emergency means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States (42 U.S.C. 5122).

End product means supplies delivered under a line item of a Government contract, except for use in part 25 and the associated clauses at 52.225–1, 52.225–3, and 52.225–5, see the definitions in 25.002, 52.225–1(a), 52.225–3(a), and 52.225–5(a).

Excess personal property means any personal property under the control of a Federal agency that the agency head determines is not required for its needs or for the discharge of its responsibilities.

Executive agency means an executive department, a military department, or any independent establishment within the meaning of 5 U.S.C. 101, 102, and 104(1), respectively, and any wholly owned Government corporation within the meaning of 31 U.S.C. 9101.

Facilities capital cost of money means ''cost of money as an element of the cost of facilities capital'' as used at 48 CFR 9904.414—Cost Accounting Standard—Cost of Money as an Element of the Cost of Facilities Capital.

Federal agency means any executive agency or any independent establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, the Architect of the Capitol, and any activities under the Architect's direction).

Federally-controlled facilities means—

(1) Federally-owned buildings or leased space, whether for single or multi-tenant occupancy, and its grounds and approaches, all or any portion of which is under the jurisdiction, custody or control of a department or agency;

(2) Federally-controlled commercial space shared with non-government tenants. For example, if a department or agency leased the 10th floor of a commercial building, the Directive applies to the 10th floor only;

(3) Government-owned, contractor-operated facilities, including laboratories engaged in national defense research and production activities; and

(4) Facilities under a management and operating contract, such as for the operation, maintenance, or support of a Government-owned or Government-controlled research, development, special production, or testing establishment.

Federally Funded Research and Development Centers (FFRDCs) means activities that are sponsored under a broad charter by a Government agency (or agencies) for the purpose of performing, analyzing, integrating, supporting, and/or managing basic or applied research and/or development, and that receive 70 percent or more of

their financial support from the Government; and—

(1) A long-term relationship is contemplated;

(2) Most or all of the facilities are owned or funded by the Government; and

(3) The FFRDC has access to Government and supplier data, employees, and facilities beyond that common in a normal contractual relationship.

Federal information system (FIS) means an information system used or operated by an executive agency, by a contractor of an executive agency, or by another organization on behalf of an executive agency (40 U.S.C. 11331).

Final indirect cost rate means the indirect cost rate established and agreed upon by the Government and the contractor as not subject to change. It is usually established after the close of the contractor's fiscal year (unless the parties decide upon a different period) to which it applies. For cost-reimbursement research and development contracts with educational institutions, it may be predetermined; that is, established for a future period on the basis of cost experience with similar contracts, together with supporting data.

First article means a preproduction model, initial production sample, test sample, first lot, pilot lot, or pilot models.

First article testing means testing and evaluating the first article for conformance with specified contract requirements before or in the initial stage of production.

F.o.b. means free on board. This term is used in conjunction with a physical point to determine—

(1) The responsibility and basis for payment of freight charges; and

(2) Unless otherwise agreed, the point where title for goods passes to the buyer or consignee.

F.o.b. destination means free on board at destination; *i.e.,* the seller or consignor delivers the goods on seller's or consignor's conveyance at destination. Unless the contract provides otherwise, the seller or consignor is responsible for the cost of shipping and risk of loss. For use in the clause at 52.247–34, see the definition at 52.247–34(a).

F.o.b. origin means free on board at origin; *i.e.,* the seller or consignor places the goods on the conveyance. Unless the contract provides otherwise, the buyer or consignee is responsible for the cost of shipping and risk of loss. For use in the clause at 52.247–29, see the definition at 52.247–29(a).

Forward pricing rate agreement means a written agreement negotiated between a contractor and the Government to make certain rates available during a specified period for use in pricing contracts or modifications. These rates represent reasonable projections of specific costs that are not easily estimated for, identified with, or generated by a specific contract, contract end item, or task. These projections may include rates for such things as labor, indirect costs, material obsolescence and usage, spare parts provisioning, and material handling.

Forward pricing rate recommendation means a rate set unilaterally by the administrative contracting officer for use by the Government in negotiations or other contract actions when forward pricing rate agreement negotiations have not been completed or when the contractor will not agree to a forward pricing rate agreement.

Freight means supplies, goods, and transportable property.

Full and open competition, when used with respect to a contract action, means that all responsible sources are permitted to compete.

General and administrative (G&A) expense means any management, financial, and other expense which is incurred by or allocated to a business unit and which is for the general management and administration of the business unit as a whole. G&A expense does not include those management expenses whose beneficial or causal relationship to cost objectives can be more directly measured by a base other than a cost input base representing the total activity of a business unit during a cost accounting period.

Governmentwide acquisition contract (GWAC) means a task-order or delivery-order contract for information technology established by one agency for Governmentwide use that is operated—

(1) By an executive agent designated by the Office of Management and Budget pursuant to 40 U.S.C. 11302(e); or

(2) Under a delegation of procurement authority issued by the General Services Administration (GSA) prior to August 7, 1996, under authority granted GSA by former section 40 U.S.C. 759, repealed by Public Law 104–106. The Economy Act does not apply to orders under a Governmentwide acquisition contract.

Governmentwide commercial purchase card means a purchase card, similar in nature to a commercial credit card, issued to authorized agency personnel to use to acquire and to pay for supplies and services.

Governmentwide point of entry (GPE) means the single point where Government business opportunities, including synopses of proposed contract actions, solicitations, and associated information, can be accessed electronically by the public. The GPE is located at *https://www.sam.gov.*

Head of the agency (see ''agency head'').

Head of the contracting activity (HCA) means the official who has overall responsibility for managing the contracting activity.

HUBZone means a historically underutilized business zone that is an area located within one or more qualified census tracts, qualified nonmetropolitan counties, lands within the external boundaries of an Indian reservation, qualified base closure areas, redesignated areas, governor-designated covered areas, or qualified disaster areas, as defined in 13 CFR 126.103.

HUBZone contract means a contract awarded to a Small Business Administration certified ''HUBZone small business concern'' through any of the following procurement methods:

(1) A sole-source award to a HUBZone small business concern.

(2) Set-aside awards based on competition restricted to HUBZone small business concerns.

(3) Awards to HUBZone small business concerns through full and open competition after a price evaluation preference in favor of HUBZone small business concerns.

(4) Awards based on a reserve for HUBZone small business concerns in a solicitation for a multiple-award contract.

HUBZone small business concern means a small business concern that meets the requirements described in 13 CFR 126.200, is certified by the Small Business Administration (SBA) and designated by SBA as a HUBZone small business concern in the Dynamic Small Business Search (13 CFR 126.103). SBA's designation also appears in SAM.

Humanitarian or peacekeeping operation means a military operation in support of the provision of humanitarian or foreign disaster assistance or in support of a peacekeeping operation under chapter VI or VII of the Charter of the United Nations. The term does not include routine training, force rotation, or stationing (10 U.S.C. 3015(2) and 41 U.S.C. 153(2)).

In writing, writing, or *written* means any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

Indirect cost means any cost not directly identified with a single final

cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective.

Indirect cost rate means the percentage or dollar factor that expresses the ratio of indirect expense incurred in a given period to direct labor cost, manufacturing cost, or another appropriate base for the same period (see also ''final indirect cost rate'').

Ineligible means excluded from Government contracting (and subcontracting, if appropriate) pursuant to statutory, Executive order, or regulatory authority other than this regulation (48 CFR chapter 1) and its implementing and supplementing regulations; for example, pursuant to—

(1) 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction), and its related statutes and implementing regulations;

(2) 41 U.S.C. chapter 67, Service Contract Labor Standards;

(3) The Equal Employment Opportunity Acts and Executive orders;

(4) 41 U.S.C. chapter 65, Contracts for Material, Supplies, Articles, and Equipment Exceeding $10,000;

(5) 41 U.S.C. chapter 83, Buy American; or

(6) The Environmental Protection Acts and Executive orders.

Information and communication technology (ICT) means information technology and other equipment, systems, technologies, or processes, for which the principal function is the creation, manipulation, storage, display, receipt, or transmission of electronic data and information, as well as any associated content. Examples of ICT include but are not limited to the following: Computers and peripheral equipment; information kiosks and transaction machines; telecommunications equipment; customer premises equipment; multifunction office machines; software; applications; websites; videos; and electronic documents.

Information security means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

(1) Integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

(2) Confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information; and

(3) Availability, which means ensuring timely and reliable access to, and use of, information.

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502(8)).

Information technology means any equipment, or interconnected system(s) or subsystem(s) of equipment, that is used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the agency.

(1) For purposes of this definition, equipment is used by an agency if the equipment is used by the agency directly or is used by a contractor under a contract with the agency that requires—

(i) Its use; or

(ii) To a significant extent, its use in the performance of a service or the furnishing of a product.

(2) The term ''information technology'' includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources.

(3) The term ''information technology'' does not include any equipment that—

(i) Is acquired by a contractor incidental to a contract; or

(ii) Contains imbedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment, such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation, are not information technology.

Inherently governmental function means, as a matter of policy, a function that is so intimately related to the public interest as to mandate performance by Government employees. This definition is a policy determination, not a legal determination. An inherently governmental function includes activities that require either the exercise of discretion in applying Government authority, or the making of value judgments in making decisions for the Government. Governmental functions normally fall into two categories: the act of governing, *i.e.,* the discretionary exercise of Government authority, and monetary transactions and entitlements.

(1) An inherently governmental function involves, among other things, the interpretation and execution of the laws of the United States so as to—

(i) Bind the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;

(ii) Determine, protect, and advance United States economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;

(iii) Significantly affect the life, liberty, or property of private persons;

(iv) Commission, appoint, direct, or control officers or employees of the United States; or

(v) Exert ultimate control over the acquisition, use, or disposition of the property, real or personal, tangible or intangible, of the United States, including the collection, control, or disbursement of Federal funds.

(2) Inherently governmental functions do not normally include gathering information for or providing advice, opinions, recommendations, or ideas to Government officials. They also do not include functions that are primarily ministerial and internal in nature, such as building security, mail operations, operation of cafeterias, housekeeping, facilities operations and maintenance, warehouse operations, motor vehicle fleet management operations, or other routine electrical or mechanical services.

Inspection means examining and testing supplies or services (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether they conform to contract requirements.

Insurance means a contract that provides that for a stipulated consideration, one party undertakes to indemnify another against loss, damage, or liability arising from an unknown or contingent event.

Interagency acquisition means a procedure by which an agency needing supplies or services (the requesting agency) obtains them from another agency (the servicing agency), by an assisted acquisition or a direct acquisition. The term includes—

(1) Acquisitions under the Economy Act (31 U.S.C. 1535); and

(2) Non-Economy Act acquisitions completed under other statutory authorities (*e.g.,* General Services Administration Federal Supply Schedules in subpart 8.4 and Governmentwide acquisition contracts (GWACs)).

Invoice means a contractor's bill or written request for payment under the contract for supplies delivered or services performed (see also ''proper invoice'').

Irrevocable letter of credit means a written commitment by a federally insured financial institution to pay all or part of a stated amount of money, until the expiration date of the letter, upon the Government's (the beneficiary) presentation of a written demand for payment. Neither the financial institution nor the offeror/contractor can revoke or condition the letter of credit.

Labor surplus area means a geographical area identified by the Department of Labor in accordance with 20 CFR part 654, subpart A, as an area of concentrated unemployment or underemployment or an area of labor surplus.

Labor surplus area concern means a concern that together with its first-tier subcontractors will perform substantially in labor surplus areas. Performance is substantially in labor surplus areas if the costs incurred under the contract on account of manufacturing, production, or performance of appropriate services in labor surplus areas exceed 50 percent of the contract price.

Latent defect means a defect that exists at the time of acceptance but cannot be discovered by a reasonable inspection.

Line item means the basic structural element in a procurement instrument that describes and organizes the required product or service for pricing, delivery, inspection, acceptance, invoicing, and payment. The use of the term ''line item'' includes ''subline item,'' as applicable.

Line item number means either a numeric or alphanumeric format to identify a line item.

Major disaster means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or regardless of cause, any fire, flood, or explosion, in any part of the United States, which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Stafford Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby (42 U.S.C. 5122).

Major system means that combination of elements that will function together to produce the capabilities required to fulfill a mission need. The elements may include hardware, equipment, software, or any combination thereof, but exclude construction or other improvements to real property. A system is a major system if—

(1) The Department of Defense is responsible for the system and the total expenditures for research, development, test, and evaluation for the system are estimated to be more than $275 million based on Fiscal Year 2024 constant dollars or the eventual total expenditure for the acquisition exceeds $1.3 billion based on Fiscal Year 2024 constant dollars (or any update of these thresholds based on a more recent fiscal year, as specified in the DoD Instruction 5000.85, ''Major Capability Acquisition'');

(2) A civilian agency is responsible for the system and total expenditures for the system are estimated to exceed $2 million or the dollar threshold for a ''major system'' established by the agency, whichever is greater; or

(3) The system is designated a ''major system'' by the head of the agency responsible for the system (10 U.S.C. 3041 and 41 U.S.C. 109).

Manufactured end product means any end product in product and service codes (PSC) 1000–9999, except—

(1) PSC 5510, Lumber and Related Basic Wood Materials;

(2) Product or service group (PSG) 87, Agricultural Supplies;

(3) PSG 88, Live Animals;

(4) PSG 89, Subsistence;

(5) PSC 9410, Crude Grades of Plant Materials;

(6) PSC 9430, Miscellaneous Crude Animal Products, Inedible;

(7) PSC 9440, Miscellaneous Crude Agricultural and Forestry Products;

(8) PSC 9610, Ores;

(9) PSC 9620, Minerals, Natural and Synthetic; and

(10) PSC 9630, Additive Metal Materials.

Market research means collecting and analyzing information about capabilities within the market to satisfy agency needs.

Master solicitation means a document containing special clauses and provisions that have been identified as essential for the acquisition of a specific type of supply or service that is acquired repetitively.

May denotes the permissive. However, the words ''no person may . . .'' means that no person is required, authorized, or permitted to do the act described.

Micro-purchase means an acquisition of supplies or services, the aggregate amount of which does not exceed the micro-purchase threshold when using the procedures in subpart 12.4.

Micro-purchase threshold (MPT) means $15,000, except it means—

(1) For acquisitions of construction subject to 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction), $2,000;

(2) For acquisitions of services subject to 41 U.S.C. chapter 67, Service Contract Labor Standards, $2,500;

(3) For acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation; to facilitate defense against or recovery from cyber, nuclear, biological, chemical or radiological attack; to support a request from the Secretary of State or the Administrator of the United States Agency for International Development to facilitate provision of international disaster assistance pursuant to 22 U.S.C. 2292 *et seq.;* or to support response to an emergency or major disaster (42 U.S.C. 5122), as described in 13.201(g)(1), except for construction subject to 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction) (41 U.S.C. 1903)—

(i) $25,000 in the case of any contract to be awarded and performed, or purchase to be made, inside the United States; and

(ii) $40,000 in the case of any contract to be awarded and performed, or purchase to be made, outside the United States; and

(4) For acquisitions of supplies or services from institutions of higher education (20 U.S.C. 1001(a)) or related or affiliated nonprofit entities, or from nonprofit research organizations or independent research institutes—

(i) $15,000; or

(ii) A higher threshold, as determined appropriate by the head of the agency and consistent with clean audit findings under 31 U.S.C. chapter 75, Requirements for Single Audits; an internal institutional risk assessment; or State law.

Multi-agency contract means a task-order or delivery-order contract established by one agency for use by Government agencies to obtain supplies and services, consistent with the Economy Act (see 17.502–2). Multi-agency contracts include contracts for information technology established pursuant to 40 U.S.C. 11314(a)(2).

Multiple-award contract (MAC) means a contract that is—

(1) A Multiple Award Schedule contract issued by GSA (*e.g.,* GSA Schedule Contract) or agencies granted Multiple Award Schedule contract authority by GSA (*e.g.,* Department of Veterans Affairs) as described in FAR part 8;

(2) A multiple-award task-order or delivery-order contract issued in accordance with FAR subpart 16.5, including Governmentwide acquisition contracts; or

(3) Any other indefinite-delivery, indefinite-quantity contract entered into with two or more sources pursuant to the same solicitation.

Must denotes the imperative.

National defense means any activity related to programs for military or atomic energy production or construction, military assistance to any foreign nation, stockpiling, or space, except that for use in subpart 11.6, see the definition in 11.601.

Neutral person means an impartial third party, who serves as a mediator, fact finder, or arbitrator, or otherwise functions to assist the parties to resolve the issues in controversy. A neutral person may be a permanent or temporary officer or employee of the Federal Government or any other individual who is acceptable to the parties. A neutral person must have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless the interest is fully disclosed in writing to all parties and all parties agree that the neutral person may serve (5 U.S.C. 583).

Nondevelopmental item means—

(1) Any previously developed item of supply used exclusively for governmental purposes by a Federal agency, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

(2) Any item described in paragraph (1) of this definition that requires only minor modification or modifications of a type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

(3) Any item of supply being produced that does not meet the requirements of paragraphs (1) or (2) solely because the item is not yet in use.

Novation agreement means a legal instrument—

(1) Executed by the—

(i) Contractor (transferor);

(ii) Successor in interest (transferee); and

(iii) Government; and

(2) By which, among other things, the transferor guarantees performance of the contract, the transferee assumes all obligations under the contract, and the Government recognizes the transfer of the contract and related assets.

Offer means a response to a solicitation that, if accepted, would bind the offeror to perform the resultant contract.

(1) It includes responses to invitations for bids (sealed bidding) called ''bids'' or ''sealed bids'' and responses to requests for proposals (negotiation) called ''proposals.''

(2) It does not include responses to requests for quotations or ''quotations.''

Offeror means an entity that makes an offer or bid, except as used in part 27, see the definition at 27.401.

Office of Small and Disadvantaged Business Utilization (OSDBU) means the Office of Small Business Programs when referring to the Department of Defense.

OMB Uniform Guidance at 2 CFR part 200 is the abbreviated title for Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200), which supersedes OMB Circulars A–21, A–87, A–89, A–102, A–110, A–122, and A–133, and the guidance in Circular A–50 on Audit Followup.

Option means a unilateral right in a contract by which, for a specified time, the Government may elect to purchase additional supplies or services called for by the contract, or may elect to extend the term of the contract.

Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

Outlying areas means—

(1) *Commonwealths.* (i) Puerto Rico.

(ii) The Northern Mariana Islands;

(2) *Territories.* (i) American Samoa.

(ii) Guam.

(iii) U.S. Virgin Islands; and

(3) *Minor outlying islands.* (i) Baker Island.

(ii) Howland Island.

(iii) Jarvis Island.

(iv) Johnston Atoll.

(v) Kingman Reef.

(vi) Midway Islands.

(vii) Navassa Island.

(viii) Palmyra Atoll.

(ix) Wake Atoll.

Overtime means time worked by a contractor's employee in excess of the employee's normal workweek.

Partial termination means the termination of a part, but not all, of the work that has not been completed and accepted under a contract.

Past performance means an offeror's or contractor's performance on active and physically completed contracts.

Performance-based acquisition means an acquisition structured around the results to be achieved as opposed to the manner by which the work is to be performed.

Performance Work Statement (PWS) means a statement of work for performance-based acquisitions that describes the required results in clear, specific and objective terms with measurable outcomes.

Personal property means property of any kind or interest in it except real property, records of the Federal Government, and naval vessels of the following categories:

(1) Battleships;

(2) Cruisers;

(3) Aircraft carriers;

(4) Destroyers; and

(5) Submarines.

Personal services contract means a contract that, by its express terms or as administered, makes the contractor personnel appear to be, in effect, Government employees (see 37.104).

Plant clearance officer means an authorized representative of the contracting officer, appointed in accordance with agency procedures, responsible for screening, redistributing, and disposing of contractor inventory from a contractor's plant or work site. The term ''contractor's plant'' includes, but is not limited to, Government-owned contractor-operated plants, Federal installations, and Federal and non-Federal industrial operations, as may be required under the scope of the contract.

Power of attorney means the authority given one person or corporation to act for and obligate another, as specified in the instrument creating the power; in corporate suretyship, an instrument under seal that appoints an attorney-in-fact to act in behalf of a surety company in signing bonds (see also ''attorney-in-fact'' at 28.001).

Preaward survey means an evaluation of a prospective contractor's capability to perform a proposed contract.

Preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

Pricing means the process of establishing a reasonable amount or amounts to be paid for supplies or services.

Principal means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.,* general manager; plant manager;

head of a division or business segment; and similar positions).

Procurement (see ''acquisition'').

Procuring activity means a component of an executive agency having a significant acquisition function and designated as such by the head of the agency. Unless agency regulations specify otherwise, the term ''procuring activity'' is synonymous with ''contracting activity.''

Products has the same meaning as *supplies.*

Proper invoice means an invoice that meets the minimum standards specified in 32.905(b).

Purchase order, when issued by the Government, means an offer by the Government to buy supplies or services, including construction and research and development, upon specified terms and conditions, using simplified acquisition procedures.

Qualifying offeror means an offeror that is determined to be a responsible source, submits a technically acceptable proposal that conforms to the requirements of the solicitation, and the contracting officer has no reason to believe would be likely to offer other than fair and reasonable pricing (10 U.S.C. 3206(c)(4)).

Receiving report means written evidence that indicates Government acceptance of supplies delivered or services performed (see subpart 46.6). Receiving reports must meet the requirements of 32.905(c).

Recovered material means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process. (42 U.S.C. 6903)

Requesting agency means the agency that has the requirement for an interagency acquisition.

Residual value means the proceeds, less removal and disposal costs, if any, realized upon disposition of a tangible capital asset. It usually is measured by the net proceeds from the sale or other disposition of the asset, or its fair value if the asset is traded in on another asset. The estimated residual value is a current forecast of the residual value.

Responsible audit agency means the agency that is responsible for performing all required contract audit services at a business unit.

Responsible prospective contractor means a contractor that meets the standards in 9.104.

Reverse auction means a real-time auction generally conducted through an electronic medium among two or more offerors who compete by submitting bids for an award of a supply contract, service contract, purchase order, or blanket purchase agreement, or for an award of an order under a contract or blanket purchase agreement, with the ability to submit revised lower bids at any time before the closing of the auction (section 2 of the Construction Consensus Procurement Improvement Act of 2021 (Pub. L. 117–28)).

SAM Contract Awards Management means the contract award reporting module in *SAM.gov,* which is the successor system to the Federal Procurement Data System.

Scrap means personal property that has no value except its basic metallic, mineral, or organic content.

Segment means one of two or more divisions, product departments, plants, or other subdivisions of an organization reporting directly to a home office, usually identified with responsibility for profit and/or producing a product or service. The term includes—

(1) Government-owned contractor-operated facilities; and

(2) Joint ventures and subsidiaries (domestic and foreign) in which the organization has—

(i) A majority ownership; or

(ii) Less than a majority ownership, but over which it exercises control.

Self-insurance means the assumption or retention of the risk of loss by the contractor, whether voluntarily or involuntarily. Self-insurance includes the deductible portion of purchased insurance.

Senior procurement executive (SPE) means the individual appointed pursuant to 41 U.S.C. 1702(c) who is responsible for management direction of the acquisition system of the executive agency, including implementation of the unique acquisition policies, regulations, and standards of the executive agency.

Service-disabled veteran-owned small business (SDVOSB) concern means a small business concern—

(1)(i) Not less than 51 percent of which is owned and controlled by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran; or

(2) A small business concern eligible under the SDVOSB Program in accordance with 13 CFR part 128 (see 19.106).

(3) *Service-disabled veteran,* as used in this definition, means a veteran as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16), and who is registered in the Beneficiary Identification and Records Locator Subsystem, or successor system that is maintained by the Department of Veterans Affairs' Veterans Benefits Administration, as a service-disabled veteran.

Service-disabled veteran-owned small business (SDVOSB) concern eligible under the SDVOSB Program means an SDVOSB concern that is designated in the System for Award Management (SAM) as certified by the Small Business Administration (SBA) in accordance with 13 CFR 128.300.

Service-disabled veteran-owned small business (SDVOSB) Program means a program that authorizes contracting officers to limit competition, including award on a sole-source basis, to SDVOSB concerns eligible under the SDVOSB Program.

Servicing agency means the agency that will conduct an assisted acquisition on behalf of the requesting agency.

Shipment means freight transported or to be transported.

Shop drawings means drawings submitted by the construction contractor or a subcontractor at any tier or required under a construction contract, showing in detail either or both of the following:

(1) The proposed fabrication and assembly of structural elements.

(2) The installation (*i.e.,* form, fit, and attachment details) of materials or equipment.

Should means an expected course of action or policy that is to be followed unless inappropriate for a particular circumstance.

Signature or *signed* means the discrete, verifiable symbol of an individual that, when affixed to a writing with the knowledge and consent of the individual, indicates a present intention to authenticate the writing. This includes electronic symbols.

Simplified acquisition procedures means the simplified procedures described in 12.201–1 and part 13 for procuring supplies or services.

Simplified acquisition threshold means $350,000, except for—

(1) Acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation; to facilitate defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack; to support a request from the Secretary of State or the Administrator of the United States

Agency for International Development to facilitate provision of international disaster assistance pursuant to 22 U.S.C. 2292 *et seq.;* or to support response to an emergency or major disaster (42 U.S.C. 5122), (41 U.S.C. 1903), the term means—

(i) $1 million for any contract to be awarded and performed, or purchase to be made, inside the United States; and

(ii) $2 million for any contract to be awarded and performed, or purchase to be made, outside the United States; and

(2) Acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a humanitarian or peacekeeping operation (10 U.S.C. 3015), the term means $650,000 for any contract to be awarded and performed, or purchase to be made, outside the United States.

Small business concern—

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria and size standards in 13 CFR part 121 (see 19.103).

(2) *Affiliates,* as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at 13 CFR 121.103.

Small business subcontractor means a concern that does not exceed the size standard for the North American Industry Classification Systems code that the prime contractor determines best describes the product or service being acquired by the subcontract.

Small Business Teaming Arrangement—

(1) Means an arrangement where—

(i) Two or more small business concerns have formed a joint venture; or

(ii) A small business offeror agrees with one or more other small business concerns to have them act as its subcontractors under a specified Government contract. A Small Business Teaming Arrangement between the offeror and its small business subcontractor(s) exists through a written agreement between the parties that—

(A) Is specifically referred to as a ''Small Business Teaming Arrangement''; and

(B) Sets forth the different responsibilities, roles, and percentages (or other allocations) of work as it relates to the acquisition;

(2)(i) For civilian agencies, may include two business concerns in a mentor-protégé relationship when both the mentor and the protégé are small or the protégé is small and the concerns have received an exception to affiliation pursuant to 13 CFR 121.103(h)(3)(ii) or (iii).

(ii) For DoD, may include two business concerns in a mentor-protégé relationship in the DoD Mentor-Protégé Program (see 10 U.S.C. 4902) when both the mentor and the protégé are small. There is no exception to joint venture size affiliation for offers received from teaming arrangements under the DoD Mentor-Protégé Program; and

(3) See 13 CFR 121.103(b)(9) regarding the exception to affiliation for offers received from Small Business Teaming Arrangements in the case of a solicitation of offers for a bundled contract with a reserve.

Small disadvantaged business concern, consistent with 13 CFR 124.1001, means a small business concern under the size standard applicable to the acquisition, that

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by—

(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding the threshold at 13 CFR 124.104(c)(2) after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13 CFR 124.106) by individuals who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

Sole source acquisition means a contract for the purchase of supplies or services that is entered into or proposed to be entered into by an agency after soliciting and negotiating with only one source.

Solicitation means any request to submit offers or quotations to the Government. Solicitations under sealed bid procedures are called ''invitations for bids.'' *Solicitations* under negotiated procedures are called ''requests for proposals.'' Solicitations under simplified acquisition procedures may require submission of either a quotation or an offer.

Solicitation provision or *provision* means a term or condition used only in solicitations and applying only before contract award.

Source selection information means any of the following information that is prepared for use by an agency for the purpose of evaluating a bid or proposal to enter into an agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

(1) Bid prices submitted in response to an agency invitation for bids, or lists of those bid prices before bid opening.

(2) Proposed costs or prices submitted in response to an agency solicitation, or lists of those proposed costs or prices.

(3) Source selection plans.

(4) Technical evaluation plans.

(5) Technical evaluations of proposals.

(6) Cost or price evaluations of proposals.

(7) Competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract.

(8) Rankings of bids, proposals, or competitors.

(9) Reports and evaluations of source selection panels, boards, or advisory councils.

(10) Other information marked as ''Source Selection Information—See FAR 2.101 and 3.104'' based on a case-by-case determination by the head of the agency or the contracting officer, that its disclosure would jeopardize the integrity or successful completion of the Federal agency procurement to which the information relates.

Special competency means a special or unique capability, including qualitative aspects, developed incidental to the primary functions of the Federally Funded Research and Development Centers to meet some special need.

Special test equipment means either single or multipurpose integrated test units engineered, designed, fabricated, or modified to accomplish special purpose testing in performing a contract. It consists of items or assemblies of equipment including foundations and similar improvements necessary for installing special test equipment, and standard or general purpose items or components that are interconnected and interdependent so as to become a new functional entity for special testing purposes. Special test equipment does not include material, special tooling, real property, and equipment items used for general testing purposes or property that with relatively minor expense can be made suitable for general purpose use.

Special tooling means jigs, dies, fixtures, molds, patterns, taps, gauges,

and all components of these items including foundations and similar improvements necessary for installing special tooling, and which are of such a specialized nature that without substantial modification or alteration their use is limited to the development or production of particular supplies or parts thereof or to the performance of particular services. Special tooling does not include material, special test equipment, real property, equipment, machine tools, or similar capital items.

Statement of Objectives (SOO) means a Government-prepared document incorporated into the solicitation that states the overall performance objectives. It is used in solicitations when the Government intends to provide the maximum flexibility to each offeror to propose an innovative approach.

Subline item means a subset of a line item.

Substantial evidence means information sufficient to support the reasonable belief that a particular act or omission has occurred.

Substantially as follows or *substantially the same as,* when used in the prescription and introductory text of a provision or clause, means that authorization is granted to prepare and utilize a variation of that provision or clause to accommodate requirements that are peculiar to an individual acquisition; provided that the variation includes the salient features of the FAR provision or clause, and is not inconsistent with the intent, principle, and substance of the FAR provision or clause or related coverage of the subject matter.

Supplemental agreement means a contract modification that is accomplished by the mutual action of the parties.

Supplies means all property except land or interest in land. It includes (but is not limited to) public works, buildings, and facilities; ships, floating equipment, and vessels of every character, type, and description, together with parts and accessories; aircraft and aircraft parts, accessories, and equipment; machine tools; and the alteration or installation of any of the foregoing.

Surety means an individual or corporation legally liable for the debt, default, or failure of a principal to satisfy a contractual obligation. The types of sureties referred to are as follows:

(1) An individual surety is one person, as distinguished from a business entity, who is liable for the entire penal amount of the bond.

(2) A corporate surety is licensed under various insurance laws and, under its charter, has legal power to act as surety for others.

(3) A cosurety is one of two or more sureties that are jointly liable for the penal sum of the bond. A limit of liability for each surety may be stated.

Surplus property means excess personal property not required by any Federal agency as determined by the Administrator of the General Services Administration (GSA). (See 41 CFR 102–36.40).

Suspending and debarring official means—

(1) An agency head; or

(2) A designee authorized by the agency head to impose a suspension and/or a debarment.

Suspension means action taken by a suspending and debarring official under 9.407 to disqualify a contractor temporarily from Government contracting and Government-approved subcontracting; a contractor that is ''suspended'' is disqualified.

System for Award Management (SAM) means the primary Government repository available at *SAM.gov* for prospective Federal awardee and Federal awardee information and the centralized Government system for certain contracting, grants, and other assistance-related processes. It includes—

(1) Data collected from prospective Federal awardees required for the conduct of business with the Government; and

(2) Identification of those parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits.

Task order means an order for services placed against an established contract or with Government sources.

Taxpayer Identification Number (TIN) means the number required by the IRS to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

Technical data means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or financial, administrative, cost or pricing, or management information, or incidental information to contract administration.

Terminated portion of the contract means the portion of a contract that the contractor is not to perform following a partial termination. For construction contracts that have been completely terminated for convenience, it means the entire contract, notwithstanding the completion of, and payment for, individual items of work before termination.

Termination for convenience means the exercise of the Government's right to completely or partially terminate performance of work under a contract when it is in the Government's interest.

Termination for default means the exercise of the Government's right to completely or partially terminate a contract because of the contractor's actual or anticipated failure to perform its contractual obligations.

Termination inventory means any property purchased, supplied, manufactured, furnished, or otherwise acquired for the performance of a contract subsequently terminated and properly allocable to the terminated portion of the contract. It includes Government-furnished property. It does not include any facilities, material, special test equipment, or special tooling that are subject to a separate contract or to a special contract requirement governing their use or disposition.

Unallowable cost means any cost that, under the provisions of any pertinent law, regulation, or contract, cannot be included in prices, cost-reimbursements, or settlements under a Government contract to which it is allocable.

Unique and innovative concept, when used relative to an unsolicited research proposal, means that—

(1) In the opinion and to the knowledge of the Government evaluator, the meritorious proposal—

(i) Is the product of original thinking submitted confidentially by one source;

(ii) Contains new, novel, or changed concepts, approaches, or methods;

(iii) Was not submitted previously by another; and

(iv) Is not otherwise available within the Federal Government.

(2) In this context, the term does not mean that the source has the sole capability of performing the research.

Unique entity identifier (UEI) means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See *www.sam.gov* for the designated entity for establishing unique entity identifiers.

United States, when used in a geographic sense, means the 50 States and the District of Columbia, except as follows:

(1) For use in subpart 3.10, see the definition at 3.1001.

(2) [Reserved]

(3) For use in subpart 22.8, see the definition at 22.801.

(4) For use in subpart 22.9, see the definition at 22.901.
(5) For use in subpart 22.12, *see* the definition at 22.1201.
(6) For use in subpart 22.13, see the definition at 22.1302.
(7) For use in subpart 22.14, see the definition at 22.1401.
(8) [Reserved]
(9) [Reserved]
(10) For use in part 25, see the definition at 25.002.
(11) For use in part 27, see the definition at 27.001.
(12) For use in subpart 47.4, see the definition at 47.401.

Unsolicited proposal means a written proposal for a new or innovative idea that is submitted to an agency on the initiative of the offeror for the purpose of obtaining a contract with the Government, and that is not in response to a request for proposals, Broad Agency Announcement, Small Business Innovation Research topic, Small Business Technology Transfer topic, Program Research and Development Announcement, or any other Government-initiated solicitation or program.

Veteran-owned small business concern means a small business concern—

(1) Not less than 51 percent of which is owned and controlled by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

Voluntary consensus standards means common and repeated use of rules, conditions, guidelines or characteristics for products, or related processes and production methods and related management systems. Voluntary Consensus Standards are developed or adopted by domestic and international voluntary consensus standard making bodies (*e.g.,* International Organization for Standardization (ISO) and ASTM-International). See OMB Circular A–119.

Warranty means a promise or affirmation given by a contractor to the Government regarding the nature, usefulness, or condition of the supplies or performance of services furnished under the contract.

Women-owned small business concern means—

(1) A small business concern—

(i) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(ii) Whose management and daily business operations are controlled by one or more women; or

(2) A small business concern eligible under the Women-Owned Small Business Program in accordance with 13 CFR part 127 (see 19.107).

Women-Owned Small Business (WOSB) Program. (1) *Women-Owned Small Business (WOSB) Program* means a program that authorizes contracting officers to limit competition, including award on a sole-source basis, to—

(i) Economically disadvantaged women-owned small business (EDWOSB) concerns eligible under the WOSB Program for Federal contracts assigned a North American Industry Classification Systems (NAICS) code in an industry in which the Small Business Administration (SBA) has determined that WOSB concerns are underrepresented in Federal procurement; and

(ii) WOSB concerns eligible under the WOSB Program for Federal contracts assigned a NAICS code in an industry in which SBA has determined that WOSB concerns are substantially underrepresented in Federal procurement.

(2) *Economically disadvantaged women-owned small business (EDWOSB) concern* means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300. It automatically qualifies as a women-owned small business (WOSB) concern eligible under the WOSB Program.

(3) *Women-owned small business (WOSB) concern eligible under the WOSB Program* means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300.

Writing or *written* (see ''in writing'').

2.102 Acronyms and abbreviations.

A list of acronyms, and abbreviations used in the FAR is available at *https://www.acquisition.gov/far-acronyms.*

2.103 Contract clause.

Insert the clause at 52.202–1, Definitions, in solicitations and contracts including those for commercial products and commercial services, if the acquisition value exceeds the simplified acquisition threshold.

PART 4—ADMINISTRATIVE AND INFORMATION MATTERS

Sec.
4.000 Scope of part.
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Subpart 4.4—Contractor Records Retention

4.400 Scope of subpart.
4.401 Purpose.
4.402 Applicability.
4.403 Policy.
4.404 Calculating retention periods.
4.405 Specific retention periods.

Authority: 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

4.000 Scope of part.

This part prescribes policies and procedures relating to the administrative aspects of contract execution, contractor-submitted

documents, reporting, retention, and files.

4.001 Definitions.

As used in this part—

Activity Address Code means a distinct six-position code consisting of a combination of alpha and/or numeric characters assigned to identify specific agency offices, units, activities, or organizations by GSA for civilian agencies and by DoD for defense agencies.

Executive means officers, managing partners, or any other employees in management positions.

First-tier subcontract means a subcontract awarded directly by the contractor to acquire supplies or services (including construction), other than for commercial products or commercial services, for performing a prime contract. It does not include the contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a contractor's general and administrative expenses or indirect costs.

Generic entity identifier means an identifier assigned to a category of vendors, not specific to any individual or entity.

4.002 Electronic commerce in contracting.

Agencies must use electronic commerce to the maximum extent that is practicable and cost-effective, see 41 U.S.C. 2301.

Subpart 4.1—Presolicitation

4.101 Contract files.

(a) Each office performing contracting, contract administration, or paying functions must establish a file containing the records of each solicitation and contractual action.

(b) The file documentation must comprehensively record the transaction history to ensure—

(1) A complete background is available for making informed decisions at each step in the acquisition process;

(2) There is clear support for all actions taken;

(3) Necessary information is accessible for reviews and investigations; and

(4) Essential facts are available in case litigation or congressional inquiries arise.

Subpart 4.2—Solicitation, Evaluation, and Award

4.201 Unique procurement instrument identifiers.

(a) Agencies must use a procurement instrument identifier (PIID) unique Governmentwide to identify each solicitation, contract, agreement, or order. The PIID must be used in all related procurement actions including forms and electronic generated formats.

(b) The PIID consists of a combination of thirteen to seventeen alpha and/or numeric characters sequenced to convey certain information. Do not use special characters (such as hyphens, dashes, or spaces).

(1) *Positions 1 through 6.* Use the issuing office Activity Address Code to identify the department/agency and office issuing the instrument.

(2) *Positions 7 through 8.* Use the last two digits of the fiscal year in which the procurement instrument is issued or awarded (*i.e.,* signed).

(3) *Position 9.* Use one of the uppercase letters according to Table 4–1. Departments and independent agencies may assign those letters identified for department use in Table 4–1 according to agency policy; however, any use must be applied to the entire department or agency.

TABLE 4–1—PIID INSTRUMENT DESIGNATION

Instrument	Letter designation
(i) Blanket purchase agreements.	A
(ii) Invitations for bids	B
(iii) Contracts of all types except indefinite-delivery contracts.	C
(iv) Indefinite-delivery contracts (including Federal Supply Schedules, Governmentwide acquisition contracts (GWACs), and multi-agency contracts).	D
(v) Reserved for future Federal Governmentwide use.	E
(vi) Task orders, delivery orders or calls under— • Indefinite-delivery contracts (including Federal Supply Schedules, GWACs, and multi-agency contracts); • Blanket purchase agreements; or • Basic ordering agreements.	F
(vii) Basic ordering agreements.	G
(viii) Agreements, including basic agreements and loan agreements, but excluding blanket purchase agreements, basic ordering agreements, and leases. Do not use this code for contracts or agreements with provisions for orders or calls.	H
(ix) Do not use this letter	I
(x) Reserved for future Federal Governmentwide use.	J
(xi) Reserved for departmental or agency use.	K
(xii) Lease agreements	L
(xiii) Reserved for departmental or agency use.	M
(xiv) Reserved for departmental or agency use.	N
(xv) Do not use this letter	O
(xvi) Purchase orders (assign V if numbering capacity of P is exhausted during a fiscal year).	P
(xvii) Requests for quotations (assign U if numbering capacity of Q is exhausted during a fiscal year).	Q
(xviii) Requests for proposals	R
(xix) Reserved for departmental or agency use.	S
(xx) Reserved for departmental or agency use.	T
(xxi) See Q, requests for quotations.	U
(xxii) See P, purchase orders	V
(xxiii) Reserved for future Federal Governmentwide use.	W
(xxiv) Reserved for future Federal Governmentwide use.	X
(xxv) Imprest fund	Y
(xxvi) Reserved for future Federal Governmentwide use.	Z

(4) *Positions 10 through 17.* Use the number assigned by the issuing agency in these positions. Agencies may choose between four and eight characters to be used, but the same number of characters must be used agencywide. Do not use leading or trailing zeroes to equal the maximum in any system or data transmission. A separate series of numbers may be used for any type of instrument listed in paragraph (b)(3) of this section. An agency may reserve blocks of numbers or alpha-numeric numbers for its various components to use.

(c) Agencies must use a non-unique identifier for a procurement action (*i.e.,* supplementary PIID) that is used with the PIID. The supplementary PIID is

used to identify amendments to solicitations and modifications to contracts, orders, and agreements. The supplementary PIID is reported as a separate data element used with, but not appended to, the PIID.

(1) *Amendments to solicitations.* Use a four-position numeric serial number in addition to the 13–17-character PIID beginning with 0001.

(2) *Modifications to contracts, orders, and agreements.* Use a six-position alpha, numeric, or a combination of both, in addition to the 13–17-character PIID. For example, a modification could be numbered P00001.

(i) *Position 1.* Use the letter P if the modification is issued by the procuring contracting office. Use the letter A if the modification is issued by the contract administration office (if other than the procuring contracting office).

(ii) *Positions 2 through 6.* These positions may be alpha, numeric, or a combination of both, according to agency procedures.

(iii) Each office authorized to issue modifications must assign the supplementary identification numbers in sequence (unless provided otherwise in agency procedures). Do not assign the numbers until the contracting officer determines that a modification is to be issued.

(d)(1) Agencies must not change the PIID unless one of the following circumstances applies:

(i) The PIID serial numbering system is exhausted.

(ii) Continued use of a PIID is administratively burdensome (*e.g.,* for implementing new agency contract writing systems).

(iii) The contract is transferred between contracting departments.

(2) If one of the circumstances described at 4.201(d)(1) applies, the contracting officer may assign a new PIID by issuing an administrative contract modification. The modification must identify both the original and the newly assigned PIID.

4.202 Uniform use of line items.

4.202–1 Policy.

(a) Procurement instruments must identify the supplies or services to be acquired as separately identified line items and, as needed, subline items.

(b) Line items—

(1) Are established to define deliverables or organize information about deliverables;

(2) Describe characteristics for the item purchased, *e.g.,* pricing, delivery, and funding information; and

(3) May be subdivided into separate unique subsets (called subline items) to ease administration. Subline items are established to define deliverables (deliverable subline items) or organize information about deliverables (informational subline items). If a line item has deliverable subline items, the line item itself is informational.

4.202–2 Establishing line items.

Establish separate line items for deliverables that have the following characteristics except as provided at 4.202–5:

(a) Separately identifiable.

(1) A supply is separately identifiable if it has its own identification (*e.g.,* national stock number, item description, manufacturer's part number).

(2) Services are separately identifiable if they have no more than one statement of work or performance work statement.

(3) If the procurement instrument involves a first article (see part 9), establish a separate line item for each item requiring a separate approval. If the first article consists of a lot composed of a mixture of items that will be approved as a single lot, a single line item may be used.

(b) Single unit price or total price.

(c) Single accounting classification citation. A single deliverable may be funded by multiple accounting classifications when the deliverable effort cannot be otherwise subdivided.

(d) Separate delivery schedule, destination, period of performance, or place of performance.

(e) Single contract pricing type (*e.g.,* fixed-price or cost-reimbursement).

4.202–3 Establishing subline items.

Subline items may be used to facilitate tracking of performance, deliverables, payment, and contract funds accounting or for other management purposes. The list of characteristics at 4.202–2 applies to deliverable subline items, but it is not applicable to informational subline items. A line item with subline items must contain only that information that is common to all subline items thereunder. All subline items under one line item must be the same contract type as the line item.

(a) *Deliverable subline items.* Deliverable subline items may be used for several related items that require separate identification. For example, instead of establishing multiple separate line items, subline items may be established for—

(1) Items that are basically the same, except for minor variations such as—

(i) Size or color;

(ii) Accounting classification, but see also 4.202–4(a)(4); or

(iii) Date of delivery, destination, or period or place of performance;

(2) Separately priced collateral functions that relate to the primary product, such as packaging and handling, or transportation; or

(3) Items to be separately identified at the time of shipment or performance.

(b) *Informational subline items.* (1) Informational subline items may be used by agencies for administrative purposes. This type of subline item identifies information that relates directly to the line item and is an integral part of it (*e.g.,* parts of an assembly or parts of a kit).

(2) Position informational subline items within the line item description, not in the quantity or price fields.

4.202–4 Required data elements for line items and subline items.

(a) Except as provided in 4.202–5, each line item or subline item must include in the schedule (or in a comparable section of the procurement instrument), at a minimum, the following information as separate, distinct data elements:

(1) Line item or subline item number established in accordance with agency procedures.

(2) Description of what is being purchased.

(3) Product and Service Code (PSC).

(4) Accounting classification citation.

(i) *Line items or deliverable subline items.* If multiple accounting classifications for a single deliverable apply, include the dollar amount for each accounting classification in the schedule (or a comparable section of the procurement instrument).

(ii) *Informational subline items.* An accounting classification citation is not required. (See 4.202–3).

(5)(i) For fixed-price line items:

(A) Unit of measure.

(B) Quantity.

(C) Unit price.

(D) Total price.

(ii) For cost-reimbursement line items:

(A) Unit of measure.

(B) Quantity.

(C) Estimated cost.

(D) Fee (if any).

(E) Total estimated cost plus any fee.

(b) If a contract contains a combination of fixed-price, time-and-materials, labor-hour, or cost-reimbursement line items, identify the contract type for each line item in the schedule (or a comparable section of the procurement instrument) to facilitate payment.

(c) Each deliverable line item or deliverable subline item must have its own delivery schedule, destination, period of performance, or place of performance expressly stated in the appropriate section of the procurement

instrument (''as required'' constitutes an expressly stated delivery term). When a line item has deliverable subline items, identify the delivery schedule, destination, period of performance, or place of performance at the subline item level, rather than the line item level.

(d) Terms and conditions in other sections of the contract (such as contract clauses or payment instructions) must also specify applicability to individual line items if not applicable to the contract as a whole.

4.202–5 Exceptions to required data elements.

(a) *Indefinite-delivery contracts*—(1) *General.* The following required data elements are not known at time of issuance of an indefinite-delivery contract; however, each order must provide them at issuance: accounting classification, delivery date and destination, or period and place of performance.

(2) *Indefinite-delivery indefinite-quantity (IDIQ) and requirements contracts.* (i) IDIQ and requirements contracts may omit the quantity at the line item level for the base award provided that the total contract minimum and maximum, or the estimate, respectively, is stated.

(ii) Multiple-award IDIQ contracts awarded using the procedures at parts 13 or 15 may omit price or cost at the line item or subline item level for the contract award, provided that the total contract minimum and maximum is stated (see part 16).

(b) *Item description and PSC.* These data elements are not required in the line item if there are associated deliverable subline items that include the actual detailed identification. When this exception applies, use a general narrative description for the line item.

(c) *Single unit price or single total price.* The requirement for a single unit price or single total price at the line item level does not apply if any of the following conditions are present:

(1) There are associated deliverable subline items that are priced.

(2) The line item or subline item is not separately priced.

(3) The supplies or services are being acquired on a cost-reimbursement, time-and-materials, or labor-hour basis.

(4) The procurement instrument is for services and firm prices have been established for elements of the total price, but the actual number of the elements is not known until performance. The contracting officer may structure these procurement instruments to reflect a firm or estimated total amount for each line item.

4.203 System for Award Management.

4.203–1 Policy.

(a) The System for Award Management (SAM) at *https://www.sam.gov* is the primary method used to collect the following information from entities interested in obtaining Federal Government contracts:

(1) Identifying information about the entity, to issue the unique entity identifier (UEI) and Commercial and Government Entity (CAGE) code;

(2) Entity-level representations and certifications (see 52.204–7(c)(1)); and

(3) Information necessary to receive payment under a contract, collect debts, or for Government reporting purposes, such as taxpayer information required by 31 U.S.C. 7701(c) and 3325(d); 26 U.S.C. 6041, 6041A, and 6050M; and implementing regulations issued by the Internal Revenue Service (IRS).

(b) Offerors or quoters are required to have an active Federal Government contracts registration in SAM when they submit an offer or quotation, and at the time of award, except for—

(1) Micro-purchases that use a Governmentwide commercial purchase card as the method of purchase and payment;

(2) Micro-purchases that do not use the electronic funds transfer (EFT) method for payment and are not required to be reported in SAM Contract Awards;

(3) Classified contracts when registration in SAM could compromise the safeguarding of classified information or national security;

(4) Contracts awarded without providing full and open competition due to unusual or compelling urgency;

(5) Contracts awarded by—

(i) Deployed contracting officers supporting military operations including, but not limited to, contingency operations as defined in 10 U.S.C. 101(a)(13) or humanitarian or peacekeeping operations as defined in 10 U.S.C. 3015(2);

(ii) Contracting officers located outside the United States and its outlying areas supporting diplomatic or developmental operations; or

(iii) Contracting officers supporting emergency operations, such as responses to natural or environmental disasters, or national or civil emergencies;

(6) Contracts with individuals for performance outside the United States and its outlying areas; and

(7) Contract actions at or below $40,000 awarded to foreign vendors for work performed outside the United States, if it is impractical to obtain SAM registration.

(c) For contracts described under paragraph (b)(4) of this section, the contractor must register in SAM within 30 days after contract award or at least three days before submitting the first invoice, whichever occurs first.

(d) For contracts or agreements described under paragraph (b)(5) of this section, if practical, the contracting officer must modify the contract to require SAM registration.

(e) When SAM registration is not required, the contracting officer must collect certain offeror identifying information and entity-level representations and certifications at the time of receipt of an offer or quotation (see 4.203–2(a)(2)).

(f) Agencies must protect against improper disclosure of nonpublic information contained in SAM.

4.203–2 Procedures.

(a) At the time an offer or quotation is submitted—

(1) Use the offeror or quoter's UEI to verify that the entity has an active Federal Government contracts registration in SAM, and document the date of SAM verification in the contract file; or

(2) If a solicitation does not require registration in SAM—

(i) Review the information provided in response to the provision at 52.204–XX, Offeror Identification, and validate the CAGE code using the CAGE code search feature at *https://cage.dla.mil;* and

(ii) Verify the offeror has included in its offer the entity-level representations and certifications required by each provision in 52.204–7(c)(1) that is included in the solicitation.

(b) Use the legal business name or ''doing business as'' name and physical address in SAM for the successful offeror's UEI to identify the contractor in the award document and all corresponding forms and data exchanges. Do not change data retrieved from SAM.

4.204 Taxpayer identification information.

(a) Agencies must collect the taxpayer identification number (TIN) to comply with the following statutory requirements—

(1) *Debt collection.* 31 U.S.C. 7701(c) requires each contractor doing business with a Government agency to furnish its TIN to that agency. 31 U.S.C. 3325(d) requires the Government to include the TIN of the contractor receiving payment with each certified voucher. The Government may use the TIN to collect and report on any delinquent amounts arising out of the contractor's relationship with the Government.

(2) *Information reporting to the IRS.* The TIN is required for Government reporting of certain contract information and payment information to the IRS. 26 U.S.C. 6109 requires a contractor to provide its TIN if a Form 1099 is required. The payment office is responsible for submitting reports to the IRS.

(b) Contracting officers will obtain the TIN from—

(1) SAM if offerors are required to be registered in SAM, see 4.203–2(a)(1) and 52.204–7; or

(2) Offers if offerors are not required to be registered in SAM, see 4.203–2(a)(2) and 52.204–XX.

4.205 Personal identity verification.

(a) Agencies must include their implementation of Homeland Security Presidential Directive-12 and the Federal Information Processing Standards Publication (FIPS PUB) Number 201 in solicitations and contracts that require the contractor to have routine physical access to a Federally-controlled facility and/or routine access to a Federal information system. For information on personal identity verification (PIV) products and services see *http://www.idmanagement.gov.*

(b) When acquiring PIV products and services not using the GSA Federal Supply Schedule for HSPD–12 Product and Service Components, agencies must ensure that the applicable products and services are approved as compliant with FIPS PUB 201 including—

(1) Certifying the products and services procured meet all applicable Federal standards and requirements;

(2) Ensuring interoperability and conformance to applicable Federal standards for the lifecycle of the components; and

(3) Maintaining a written plan for ensuring ongoing conformance to applicable Federal standards for the lifecycle of the components.

4.206 Contracting officer's signature.

Only contracting officers can sign contracts on behalf of the United States. The contracting officer's name and official title must be typed, stamped, or printed on the contract. The contracting officer normally signs the contract after the contractor has signed it. A digital signature using a certificate from the PIV or Common Access Card (CAC) assigned to the contracting officer is considered acceptable as a written signature.

4.207 Contractor's signature.

(a) *Individuals.* A contract with an individual must be signed by that individual. A contract with an individual doing business as a firm must be signed by that individual, and the signature must be followed by the individual's typed, stamped, or printed name and the words ‘‘, an individual doing business as _____’’ [*insert name of firm*].

(b) *Partnerships.* A contract with a partnership must be signed in the partnership name. Before signing for the Government, the contracting officer must obtain a list of all partners and ensure that the individual(s) signing for the partnership have authority to bind the partnership.

(c) *Corporations.* A contract with a corporation must be signed in the corporate name, followed by the word ‘‘by’’ and the signature and title of the person authorized to sign. The contracting officer must ensure that the person signing for the corporation has authority to bind the corporation.

(d) *Joint venturers.* A contract with joint venturers may involve any combination of individuals, partnerships, or corporations. The contract must be signed by each participant in the joint venture in the manner prescribed in paragraphs (a) through (c) of this section for each type of participant. When a corporation is participating, the contracting officer must verify that the corporation is authorized to participate in the joint venture.

(e) *Agents.* When an agent is to sign the contract, other than as stated in paragraphs (a) through (d) of this section, the agent's authorization to bind the principal must be established by evidence that satisfies the contracting officer.

(f) *Digital signatures.* Contractor's digital signatures are acceptable as a written signature when using authentication and/or signature certificates from a PIV or CAC obtained from a credentialed organization.

4.208 Solicitation provisions and contract clauses.

(a) Insert the provision at 52.204–5, Women-Owned Business (Other Than Small Business), in solicitations, including those for commercial products and commercial services, that—

(1) Are not set aside for small business concerns;

(2) Exceed the simplified acquisition threshold (SAT); and

(3) Are for contracts that will be performed in the United States or its outlying areas.

(b) When offerors are required to be registered in SAM, insert—

(1) The provision at 52.204–7, System for Award Management—Registration, in solicitations, including those for commercial products and commercial services.

(i) Do not separately include the provisions listed in paragraph (c)(1) of the provision at 52.204–7.

(ii) Use the provision with its Alternate I for acquisitions described at 4.203–1(b)(4); and

(2) The clause at 52.204–13, System for Award Management—Maintenance, in solicitations and contracts, including those for commercial products and commercial services. Use the clause with its Alternate I for acquisitions described at 4.203–1(b)(4).

(c) When offerors are not required to be registered in SAM, insert—

(1) In solicitations, including those for commercial products and commercial services—

(i) The provision at 52.204–XX, Offeror Identification; and

(ii) Each provision listed in paragraph (c)(1) of the provision at 52.204–7, if applicable based on each provision prescription; and

(2) In solicitations and contracts, including those for commercial products and commercial services, the clause at 52.204–YY, Contractor Identification.

(d) Insert the clause at 52.204–9, Personal Identity Verification of Contractor Personnel, in solicitations and contracts, including those for commercial products (other than commercially available off-the-shelf items) or commercial services, when contract performance requires contractors to have routine physical access to a Federally-controlled facility and/or routine access to a Federal information system.

(e) Insert the clause at 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards, in solicitations and contracts, other than those for commercial products or commercial services, if the acquisition value exceeds $40,000 and the award is required to be reported in SAM Contract Awards Management.

(f)(1) The clauses in paragraphs (f)(2) and (3) of this section provide requirements for obtaining information from agency service contractors. The clauses are not required for—

(i) Actions entirely funded by DoD;

(ii) Contracts for commercial services; or

(iii) Classified solicitations, contracts, or orders.

(2) Insert the clause at 52.204–14, Service Contract Reporting Requirements, in solicitations and contracts for services other than

commercial services if the acquisition value is at or more than the thresholds at 4.304(b), excluding indefinite-delivery contracts.

(3) Insert the clause at 52.204–15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts, in solicitations and indefinite-delivery contracts for services, excluding commercial services, if one or more orders are expected to be at or more than the thresholds at 4.304(b).

(g) Insert the clause at 52.204–19, Incorporation by Reference of Representations and Certifications, in all solicitations and contracts, including those for commercial products and commercial services.

Subpart 4.3—Postaward

4.301 Contract distribution.

Distribute executed contracts or modifications within 10 working days to the contractor, and to appropriate parties (*e.g.,* payment office—and see 4.308) according to agency regulations.

4.302 Contract reporting.

(a) As required by 41 U.S.C. 1122 and 1712, SAM Contract Awards Management provides a comprehensive web-based tool for agencies to report contract actions.

(1) At a minimum, agencies must report—

(i) The following contract actions exceeding the micro-purchase threshold, regardless of solicitation process used:

(A) Definitive contracts, including purchase orders and imprest fund buys awarded by a contracting officer.

(B) Indefinite delivery vehicle (identified as an ''IDV'' in SAM Contract Awards Management) and all calls and orders awarded under it; and

(ii) Any modification to the contract actions in paragraph (a)(1)(i) that change previously reported contract action data, regardless of dollar value.

(2) Agencies may submit actions other than those listed at paragraph (a)(1) of this section if approved in writing by OFPP.

(3) Agencies will not report the following types of contract actions:

(i) Imprest fund transactions below the micro-purchase threshold, including those made via the Government purchase card (unless specific agency procedures prescribe reporting these actions).

(ii) Orders from the GSA stock and the GSA Global Supply Program.

(iii) Purchases made at GSA or AbilityOne service stores, as these items stocked for resale have already been reported by GSA.

(iv) Purchases made using non-appropriated fund activity cards, chaplain fund cards, individual Government personnel training orders, and Defense Printing orders.

(v) Actions that, according to other authority, will not be entered into SAM Contract Awards Management (*e.g.,* reporting of the information would compromise national security).

(vi) Contract actions in which the required data would constitute classified information.

(vii) Resale activity (*i.e.,* commissary or exchange activity).

(viii) Revenue generating arrangements (*i.e.,* concessions).

(ix) Training expenditures not issued as orders or contracts.

(x) Interagency agreements other than interagency acquisitions required to be reported.

(xi) Letters of obligation used in the A–76 process.

(b) Agencies awarding assisted acquisitions or direct acquisitions must report these actions and identify the Program/Funding Agency and Office Codes from the applicable agency codes maintained by each agency in SAM. These codes represent the agency and office that has provided the predominant amount of funding for the contract action. For assisted acquisitions, the requesting agency will receive socioeconomic credit for meeting agency small business goals, where applicable. Requesting agencies must provide the appropriate agency/bureau component code as part of the written interagency agreement between the requesting and servicing agencies (see part 17).

(c) Agencies awarding contract actions with a mix of appropriated and non-appropriated funding must only report the full appropriated portion of the contract action in SAM Contract Awards Management.

(d) Agencies may consolidate, at least monthly, multiple action reports for a vendor when it would be overly burdensome to report each action individually.

(e)(1) Agencies may use a generic entity identifier, rather than an entity's assigned UEI, for—

(i) Contract actions valued at or below $40,000 that are awarded to a contractor that is—

(A) A student;

(B) A dependent of either a veteran, foreign Service officer, or military member assigned outside the United States and its outlying areas; or

(C) Located outside the United States and its outlying areas for work to be performed outside the United States and its outlying areas and the contractor does not otherwise have a UEI;

(ii) Contracts valued above $40,000 awarded to individuals located outside the United States and its outlying areas for work to be performed outside the United States and its outlying areas; or

(iii) Contracts when specific public identification of the contracted party could endanger the mission, contractor, or recipients of the acquired goods or services. The contracting officer must include a written determination in the contract file of a decision applicable to authority under this paragraph (e)(1)(iii).

(2) The Integrated Award Environment program office will maintain the list of generic entity identifiers that agencies may use.

(f)(1) The Senior Procurement Executive in coordination with the head of the contracting activity is responsible for developing and monitoring a process to ensure timely and accurate reporting of contractual actions to SAM Contract Awards Management.

(2)(i) The contracting officer awarding the contract action is responsible for accurately completing the individual contract action report (CAR). Unpublished CARs in SAM Contract Awards Management are not considered complete.

(ii) Complete the CAR in SAM Contract Awards Management within three business days after contract award.

(iii) Complete the CAR for any action awarded without providing full and open competition due to unusual or compelling urgency or according to any of the emergency acquisition flexibilities within 30 days after contract award.

(3) The chief acquisition officer of each agency required to report its contract actions must submit to OFPP within 120 days after the end of each fiscal year, an annual certification of whether, and to what degree, agency CAR data for the preceding fiscal year is complete and accurate.

4.303 Personal identity verification.

Agency procedures for the return of PIV products must ensure that Government contractors account for all forms of Government-provided identification issued to Government contractor employees under a contract, *i.e.,* the PIV cards or other similar badges, and must ensure that contractors return such identification to the issuing agency as soon as any of the following occurs, unless otherwise determined by the agency:

(a) When no longer needed for contract performance.

(b) Upon completion of a contractor employee's employment.

(c) Upon contract completion or termination.

4.304 Service contracts inventory.

(a) *Requirement.* As required by section 743(a) of Division C of the Consolidated Appropriations Act, 2010 (31 U.S.C. 501 note) (Pub. L. 111–117), agencies covered by the Federal Activities Inventory Reform Act (Pub. L. 105–270), except DoD, must submit annually to OMB an inventory of activities performed by service contractors. The information reported in the inventory will be publicly accessible.

(b) *Contractor reporting requirements thresholds.*

(1) Service contractor reporting is required for contracts and first-tier subcontracts for services, excluding commercial services, based on type of contract and estimated total value. For indefinite-delivery contracts, the contracting officer must determine the reporting requirements based on the type and estimated total value of each order under the contract.

(2) Reporting is required according to the following thresholds:

(i) Cost-reimbursement, time-and-materials, and labor-hour service contracts and orders with an estimated total value exceeding the SAT.

(ii) Fixed-price service contracts awarded and orders with an estimated total value of $500,000 or more.

(c) *Agency reporting responsibilities.*

(1) Agencies must compile annually an inventory of service contracts performed for, or on behalf of, the agency during the previous fiscal year to determine the extent of the agency's reliance on service contractors.

(2) Agencies must review contractor-reported information for reasonableness and consistency with available contract information. Authorized agency officials may review the reports at *https://www.sam.gov.* The agency is not required to address data for which the agency would not normally have supporting information. If revisions to the contractor-reported information are warranted, the agency must notify the contractor. The contractor must revise the report, or document its rationale for the agency. The contractor-provided information is meant to supplement agency annual service contract reporting. Agencies must post the inventory on its website and publish a **Federal Register** Notice of Availability.

4.305 System for Award Management.

(a) Contractors must maintain throughout the life of the contract through final payment—

(1) Their registration, if they are required to be registered in SAM; or

(2) Their identifying information, if they are not required to be registered in SAM.

(b) Contracting officers must validate the contractor has an active Federal Government contracts registration in SAM, if they are required to be registered in SAM, at the following times:

(1) For contracts described at 4.203–1(b)(4), within 30 days after contract award, or at least three days before submitting the first invoice, whichever occurs first.

(2) Before exercising any options on a contract.

(3) For novation and change-of-name agreements, see paragraph (c) of the clause at 52.204–13.

(4) For assignees for the purpose of assignment of claims, see paragraph (d) of the clause at 52.204–13.

4.306 Contractor identification.

(a) Contractors are required to maintain their UEI and CAGE code throughout the life of the contract.

(b) Contractors must communicate any change to their UEI or CAGE code to the contracting officer within 30 days after the change, so the contracting officer can issue a modification to update the UEI or CAGE code on the contract. A change in the UEI does not necessarily require a novation.

4.307 Executive compensation.

(a) Contractors subject to the clause at 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards, must report certain data required by section 2 of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110–252).

(b) Certain data reported in SAM Contract Awards Management will prepopulate certain fields in SAM to help contractors complete and submit their reports required by 52.204–10. If the SAM Contract Awards Management data is inaccurate, the contracting officer will correct the data.

4.308 Payment office.

Provide the payment office information required to make proper payments under a contract, at least the TIN, type of organization, the UEI, and, if applicable, the EFT indicator.

4.309 Contract closeout.

4.309–1 Procedures for closing out contract files.

(a) The administrative closeout procedures must ensure that—

(1) Disposition of classified material is completed;

(2) Final patent report is cleared. If a final patent report is required, the contracting officer may proceed with contract closeout according to the following procedures, or as otherwise prescribed by agency procedures:

(i) Final patent reports should be cleared within 60 days of receipt.

(ii) If the final patent report is not received, the contracting officer must notify the contractor of the contractor's obligations and the Government's rights under the applicable patent rights clause, according to part 27. If the contractor fails to respond to this notification, the contracting officer may proceed with contract closeout upon consultation with the agency legal counsel responsible for patent matters regarding the contractor's failure to respond.

(3) Final royalty report is cleared;

(4) There is no outstanding value engineering change proposal;

(5) Plant clearance report is received;

(6) Property clearance is received;

(7) All interim or disallowed costs are settled;

(8) Price revision is completed;

(9) The prime contractor settles its subcontracts;

(10) Prior year indirect cost rates are settled;

(11) Termination docket is completed;

(12) Contract audit is completed;

(13) Contractor's closing statement is completed;

(14) Contractor's final invoice has been submitted; and

(15) Contract funds review is completed and excess funds deobligated.

(b) When the actions in paragraph (a) of this section have been verified, the contracting officer administering the contract must prepare a contract completion statement containing the following information:

(1) Contract administration office name and address (if different from the contracting office).

(2) Contracting office name and address.

(3) Contract number.

(4) Last modification number.

(5) Last call or order number.

(6) Contractor name and address.

(7) Dollar amount of excess funds, if any.

(8) Voucher number and date, if final payment has been made.

(9) Invoice number and date, if the final approved invoice has been forwarded to a disbursing office of another agency or activity and the status of the payment is unknown.

(10) A statement that all required contract administration actions have

been fully and satisfactorily accomplished.

(11) Name and signature of the contracting officer.

(12) Date.

(c) When the statement is completed, the contracting officer must place—

(1) The signed original in the contracting office contract file (or forwarded to the contracting office for placement in the files if the contract administration office is different from the contracting office); and

(2) A signed copy in the appropriate contract administration file if administration is performed by a contract administration office.

4.309–2 Contract closeout by the office administering the contract.

(a)(1) The contract administration office must initiate administrative closeout of the contract after receiving evidence of its physical completion, except for contracts under paragraph (b)(1) of this section.

(2) Except as provided in paragraph (a)(3) of this section, contract physical completion occurs when—

(i)(A) The contractor has completed the required deliveries and the Government has inspected and accepted the supplies;

(B) The contractor has performed all services and the Government has accepted these services; and

(C) All option provisions, if any, have expired; or

(ii) The Government has given the contractor a notice of complete contract termination.

(3) Rental, use, and storage agreements physical completion occurs when—

(i) The Government has given the contractor a notice of complete contract termination; or

(ii) The contract period has expired.

(4) At the start of this process, the contract administration office must review the contract funds status and notify the contracting office of any excess funds the contract administration office might deobligate.

(b) Except as provided in paragraph (d) of this section, contract files should be closed according to Table 4–2.

TABLE 4–2—TIME STANDARDS FOR CLOSING OUT CONTRACT FILES

Files for:	Should be:
(1) Contracts using simplified acquisition procedures, except when using the fast payment procedures in part 32.	Considered closed when the invoice for the last deliverable has been paid.
(2)(i) Contracts using simplified acquisition procedures, and the fast payment procedures in part 32; or (ii) Firm-fixed-price contracts, other than those using simplified acquisition procedures.	Closed within 6 months after the date on which the contracting officer receives evidence of physical completion.
(3) Contracts requiring settlement of indirect cost rates	Closed within 36 months of the month in which the contracting officer receives evidence of physical completion.
(4) All other contracts	Closed within 20 months of the month in which the contracting officer receives evidence of physical completion.

(c) The closeout actions in paragraph (b) of this section may be modified to reflect the extent of administration that has been performed. Use quick closeout procedures (see part 42), when appropriate, to reduce administrative costs and to enable deobligation of excess funds.

(d) Do not close a contract file if—

(1) The contract is in litigation or under appeal; or

(2) In the case of a termination, all termination actions have not been completed.

4.310 Storage, handling, and contract files.

(a) Agencies must keep acquisition records according to Table 4–3. This requirement also applies to record copies stored on alternate media when original documents have been converted to alternate media for storage.

TABLE 4–3—RETENTION PERIODS

Record	Retention period
(1) Contracts (and related records or documents, including successful and unsuccessful proposals, except see paragraph (a)(2) of this section regarding contractor payrolls submitted under construction contracts.).	6 years after final payment.
(2) Contractor's payrolls submitted under construction contracts according to Department of Labor regulations (29 CFR 5.5(a)(3)), with related certifications, anti-kickback affidavits, and other related records.	3 years after contract completion unless contract performance is the subject of an enforcement action on that date (see paragraph (a)(7) of this section).
(3) Unsolicited proposals not accepted by a department or agency	Retain according to agency procedures.
(4) Files for canceled solicitations	6 years after cancellation.
(5) Other copies of procurement file records used for administrative purposes.	When business use ceases.
(6) Data submitted to SAM Contract Awards Management. Electronic data file maintained by fiscal year, containing unclassified records of all procurements exceeding the micro-purchase threshold, and information required under 4.302.	6 years after submittal to SAM Contract Awards Management.
(7) Investigations, cases pending or in litigation (including protests), or similar matters (including enforcement actions).	Until final clearance or settlement, or, if related to a document identified in paragraphs (a)(1) through (6) of this section, for the retention period specified for the related document, whichever is later.
(8) Contracts involving Small Business Innovation Research/Small Business Technology Transfer data rights which include the clause at 52.227–30.	20 years after contract award, or at the end of the protection period as specified in 52.227–30 as it appears in the contract, whichever is later.

(b) Agencies must prescribe procedures for the handling, storing, and disposing of contract files, according to the National Archives and Records Administration (NARA) General Records Schedule 1.1, Financial Management and Reporting Records. The Financial Management and Reporting Records can be found at *http://www.archives.gov/records-mgmt/grs.html.* The procedures should conform with the regulatory requirements in paragraph (a) of this section, which have been acknowledged and approved by NARA in its guidance.

(c) If administrative records are mixed with program records and cannot be reasonably separated, keep the entire file for the period approved for the program records. Similarly, if documents described in Table 4–3 are part of a subject or case file that documents activities not described in the table, maintain them with the subject or case file.

Subpart 4.4 Contractor Records Retention

4.400 Scope of subpart.

This subpart provides policies and procedures for contractors to retain records to meet the records review requirements of the Government. In this subpart, the terms ''contracts'' and ''contractors'' include ''subcontracts'' and ''subcontractors.''

4.401 Purpose.

The purpose of this subpart is to generally describe records retention requirements and to allow reductions in the retention period for specific classes of records under prescribed circumstances.

4.402 Applicability.

(a) This subpart applies to records generated under contracts that contain one of the following clauses:

(1) Audit and Records—Sealed Bidding (52.214–26).

(2) Audit and Records—Negotiation (52.215–2).

(b) This subpart is not mandatory on Department of Energy contracts for which the Comptroller General allows alternative records retention periods. Apart from this exception, this subpart applies to record retention periods under contracts that are subject to 10 U.S.C. chapter 137 legacy provisions (10 U.S.C. 3064) and 10 U.S.C. 3016 and chapter 203 or 40 U.S.C. 101, *et seq.*

4.403 Policy.

(a) Except as stated in 4.403(b), contractors must make available records, which includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form, and other supporting evidence to satisfy contract negotiation, administration, and audit requirements of the contracting agencies and the Comptroller General for—

(1) 3 years after final payment; or

(2) For certain records, the period specified in 4.405, whichever of these periods expires first.

(b) Contractors must make available the foregoing records and supporting evidence for a longer period than is required in 4.403(a) if—

(1) A retention period longer than that cited in 4.403(a) is specified in any contract clause; or

(2) The contractor, for its own purposes, retains the foregoing records and supporting evidence for a longer period. Under this circumstance, the retention period must be the period of the contractor's retention or 3 years after final payment, whichever period expires first.

(3) The contractor does not meet the original due date for submission of final indirect cost rate proposals specified in paragraph (d)(2) of the clause at 52.216–7, Allowable Cost and Payment. Under these circumstances, the retention periods in 4.405 must be automatically extended one day for each day the proposal is not submitted after the original due date.

(c) Nothing in this section must be construed to preclude a contractor from duplicating or storing original records in electronic form unless they contain significant information not shown on the record copy. Original records need not be maintained or produced in an audit if the contractor or subcontractor provides photographic or electronic images of the original records and meets the following requirements:

(1) The contractor or subcontractor has established procedures to ensure that the imaging process preserves accurate images of the original records, including signatures and other written or graphic images, and that the imaging process is reliable and secure to maintain the integrity of the records.

(2) The contractor or subcontractor maintains an effective indexing system to permit timely and convenient access to the imaged records.

(3) The contractor or subcontractor retains the original records for a minimum of one year after imaging to permit periodic validation of the imaging systems.

(d) If the information described in paragraph (a) of this section is maintained on a computer, contractors must retain the computer data on a reliable medium for the time periods prescribed. Contractors may transfer computer data in machine readable form from one reliable computer medium to another. Contractors' computer data retention and transfer procedures must maintain the integrity, reliability, and security of the original computer data. Contractors must also retain an audit trail describing the data transfer. For the record retention time periods prescribed, contractors must not destroy, discard, delete, or write over such computer data.

4.404 Calculating retention periods.

(a) The retention periods in 4.405 are calculated from the end of the contractor's fiscal year in which an entry is made charging or allocating a cost to a Government contract or subcontract. If a specific record contains a series of entries, the retention period is calculated from the end of the contractor's fiscal year in which the final entry is made. The contractor should cut off the records in annual blocks and retain them for block disposal under the prescribed retention periods.

(b) When a contractor relies upon records generated during a prior contract for certified cost or pricing data in negotiating a succeeding contract, the prescribed periods must run from the date of the succeeding contract.

(c) If two or more of the record categories described in 4.405 are interfiled and screening for disposal is not practical, the contractor must retain the entire record series for the longest period prescribed for any category of records.

4.405 Specific retention periods.

The contractor must retain records according to Table 4–4.

TABLE 4–4—CONTRACTOR RECORDS RETENTION PERIODS

Category	Record type	Retention period
Financial and cost accounting records.	Accounts receivable invoices, adjustments to the accounts, invoice registers, carrier freight bills, shipping orders, and other documents that detail the material or services billed on the related invoices.	4 years.
	Material, work order, or service order files, consisting of purchase requisitions or purchase orders for material or services, or orders for transferring material or supplies.	4 years.
	Cash advance recapitulations, prepared as posting entries to accounts receivable ledgers for amounts of expense vouchers prepared for employees' travel and related expenses.	4 years.
	Paid, canceled, and voided checks, other than those issued for paying salary and wages.	4 years.
	Accounts payable records to support disbursements of funds for materials, equipment, supplies, and services, containing originals or copies of the following and related documents: remittance advices and statements, vendors' invoices, invoice audits and distribution slips, receiving and inspection reports or comparable certifications of receipt and inspection of material or services, and debit and credit memoranda.	4 years.
	Labor cost distribution cards or equivalent documents	2 years.
	Petty cash records describing expenditures, to whom paid, name of person authorizing payment, and date, including copies of vouchers and other supporting documents.	2 years.
Pay administration records	Payroll sheets, registers, or their equivalent, of salaries and wages paid to individual employees for each payroll period; change slips; and tax withholding statements.	4 years.
	Clock cards or other time and attendance cards	2 years.
	Paid checks, receipts for wages paid in cash, or other evidence of payments for services rendered by employees.	2 years.
Acquisition and supply records	Store requisitions for materials, supplies, equipment, and services	2 years.
	Work orders for maintenance and other services	4 years.
	Equipment records, consisting of equipment usage and status reports and equipment repair orders.	4 years.
	Expendable property records, reflecting accountability for receiving and using material to perform a contract.	4 years.
	Receiving and inspection report records, consisting of reports reflecting receipt and inspection of supplies, equipment, and materials.	4 years.
	Purchase order files for supplies, equipment, material, or services used to perform a contract; supporting documentation and backup files including, but not limited to, invoices, and memoranda, *e.g.,* memoranda of negotiations showing the principal elements of subcontract price negotiations.	4 years.
	Production records of quality control, reliability, and inspection	4 years.
	Property records (see part 45)	4 years.

PART 33—PROTESTS, DISPUTES, AND APPEALS

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Authority: 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

33.000 Scope of part.

This part outlines policies and procedures for filing protests and for processing contract disputes and appeals.

Subpart 33.1—Protests

33.100 Purpose of the bid protest system.

(a) The bid protest system provides a prompt, fair, and transparent way to resolve disputes concerning federal procurement actions.

(b) The objectives of the protest system are to:

(1) Ensure protests are decided efficiently and without undue delay, to minimize disruption to contract award and performance;

(2) Support the effective and economical operation of the Government by correcting procurement errors, as quickly as possible;

(3) Deter and discourage abuse of the bid protest process by requiring clear and substantiated allegations of procurement impropriety;

(4) Safeguard the rights of interested parties to obtain independent review of procurement actions alleged to violate law or regulation; and

(5) Promote integrity, competition, accountability, and public confidence in the federal acquisition system by using available, timely, and appropriate remedies.

(c) All participants in the protest process, including protesters, agency officials, and intervenors, should act in a manner consistent with these purposes to help resolve protests fairly and quickly.

(d) The protest process is not intended to serve as a way for offerors to get post-award explanations, or debriefings. Interested parties should address questions regarding the evaluation, award rationale, or proposal deficiencies through established preaward or postaward communication procedures, including formal debriefings where applicable under 15.206, 15.301, or other relevant FAR parts.

(e) An incumbent contractor should not use protests as a way to disrupt transition or induce contract extensions, unless legally and factually sufficient grounds for protest exist.

33.101 Applicability.

(a) This subpart applies to protests filed with an agency or the Government Accountability Office (GAO).

(b) This subpart, except for 33.100 and 33.103(c), does not apply to bid protest or dispute appeal authorities where the United States Court of Federal Claims has jurisdiction (see 28 U.S.C. 1491).

(c) This subpart does not apply to protests of small business status (see 13 CFR part 121).

33.102 Definitions.

As used in this subpart—

Day means a calendar day, unless otherwise specified. In the computation of any period—

(1) The day of the act, event, or default from which the designated period of time begins to run is not included; and

(2) The last day after the act, event, or default is included. However, if the last day is a Saturday, Sunday, or Federal holiday, or the place for filing is closed for all or part of the last day, then the deadline for filing is the next day the place is open.

Filed means the complete receipt of any document by an agency before its close of business. Documents received after close of business are considered filed as of the next day. Unless otherwise stated, the agency close of business is presumed to be 4:30 p.m., local time.

Interested Party for the purpose of filing a protest means an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.

Protest means a written objection by an interested party to any of the following:

(1) A solicitation or other request by an agency for offers for a contract for the procurement of property or services.

(2) The cancellation of the solicitation or other request.

(3) An award or proposed award of the contract.

(4) A termination or cancellation of an award of the contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the contract award.

33.103 General.

(a) *Consulting with legal counsel.* Whenever a contracting officer becomes aware of a protest on one of their acquisitions, they should consult with their designated legal counsel.

(b) *Agency action on protests.* If the head of an agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, then, according to 41 U.S.C. 3708, the head of the agency may—

(1) Take any action that could have been recommended by the Comptroller General had the protest been filed with the Government Accountability Office (see 31 U.S.C. 3554(b)(1)(A)(F);

(2) Pay appropriate costs as provided in 31 U.S.C. 3554(c);

(3)(i) Require the awardee to reimburse the Government's costs, where a postaward protest is sustained due to the awardee's intentional or negligent misstatement, misrepresentation, or miscertification, as described in 52.233–3.

(ii) When a protest is sustained by GAO under circumstances that may allow the Government to seek reimbursement for protest costs, the contracting officer will determine whether the protest was sustained based on the awardee's negligent or intentional misrepresentation. If the protest was sustained on several issues, protest costs must be apportioned according to the costs attributable to the awardee's actions.

(iii)(A) The contracting officer must review the amount of the debt, degree of the awardee's fault, and costs of collection, to determine whether a demand for reimbursement ought to be made.

(B) If it is in the best interests of the Government to seek reimbursement, the contracting officer must notify the awardee in writing of the nature and amount of the debt, and the intention to collect by offset if necessary.

(C) Before issuing a final decision, the contracting officer must give the awardee an opportunity to inspect and copy agency records about the debt to the extent permitted by statute and regulation, and to request review of the matter by the head of the contracting activity.

(c) *Availability of funds.* (1) When a protest is filed with GAO, the Court of Federal Claims, or an agency regarding a solicitation, proposed award, or award of a contract, and the agency's contract funds available at the time the protest is filed would otherwise lapse, those funds remain available for obligation for 100 days following the date of the final ruling on the protest (31 U.S.C. 1558).

(2) A ruling is considered final on the date on which the time allowed for filing an appeal or request for reconsideration has expired, or the date on which a decision is rendered on such appeal or request, whichever is later.

(d) *Stop-work order.* Whenever the contracting officer is required or decides to suspend performance under this subpart, the contracting officer must issue a written stop-work order, and must specifically identify it as a stop-work order issued under 52.233–3, Protest after Award.

(e) *Contract transition.* The contracting officer should document a finding when a protest is filed by an incumbent contractor that disrupts transition or induces an extension of their current contract (see 33.100(e)).

33.104 Protests to the agency.

33.104–1 Scope.

(a) This section implements Executive Order 12979, Agency Procurement Protests.

(b) The agency should provide for inexpensive, informal, procedurally simple, and quick resolution of protests. Where appropriate, the use of alternative dispute resolution techniques, third party neutrals, and another agency's personnel are acceptable protest resolution methods.

33.104–2 Preaward.

(a) *Filing.* Protests based on alleged apparent improprieties in a solicitation must be filed before bid opening or the closing date for receiving proposals. If

no closing time has been established, or if no further submissions are anticipated, any alleged solicitation improprieties must be protested within 10 days of when the alleged impropriety was known or should have been known, whichever is earlier.

(b) *Action upon receiving a protest before award.* (1) A contract may not be awarded until the agency resolves the protest, unless a written justification is made for urgent and compelling reasons, or award is determined in writing to be in the best interest of the United States. Such justification must be approved at least one level above the contracting officer.

(2) If award is withheld pending agency resolution of the protest, the contracting officer will inform the offerors whose offers might become eligible for award of the contract. If appropriate to avoid the need to resolicit, the contracting officer should request that offerors extend the time to accept their proposals. If offers are not extended, then consideration should be given to proceeding with award pursuant to paragraph (b)(1) of this section.

33.104–3 Postaward.

(a)(1) Protests must be filed no later than 10 days after the basis of protest is known or should have been known, whichever is earlier, except when a timely debriefing is requested and when requested, is required. In such instances, the protest must not be filed before the debriefing date offered to the protester, but must be filed no later than ten days after the date the debriefing is held.

(2) If a protest is received within 10 days after contract award or within 5 days after a debriefing date offered to the protester under a timely debriefing request in accordance with 15.206–2 or 15.301–1, whichever is later, then the contracting officer must immediately suspend performance, pending resolution of the protest within the agency, including any independent review by a higher level official, unless continued performance is justified.

(b) Continued performance may be justified upon a written finding that there are urgent and compelling reasons, or continued performance is determined in writing to be in the best interest of the United States. Such justification must be approved at least one level above the contracting officer.

33.104–4 Other procedures.

(a) *General.* These procedures are established to resolve agency protests effectively, to build confidence in the Government's acquisition system, and to reduce protests outside of the agency:

(1) Before submitting an agency protest, parties must use their best efforts to resolve concerns raised by an interested party at the contracting officer level through open and frank discussions.

(2) Protests must be concise and logically presented to facilitate review by the agency.

(3) Protests must include the following information. Failure to comply may result in dismissing the protest.

(i) Name, email address, and telephone number of the protester.

(ii) Solicitation or contract number.

(iii) Detailed statement of the legal and factual grounds for the protest, including a description of resulting prejudice to the protester.

(iv) Copies of relevant documents.

(v) Request for a ruling by the agency.

(vi) Statement as to the form of relief requested.

(vii) All information establishing that the protester is an interested party for the purpose of filing a protest.

(viii) All information establishing the timeliness of the protest.

(4)(i) Protests filed directly with the agency will be addressed to the contracting officer or other official designated to receive protests.

(ii) As soon as practicable after a protest is filed, the contracting officer must notify the head of the contracting activity, in accordance with agency procedures.

(5)(i) In accordance with agency procedures, interested parties may request an independent review of their protest at a level above the contracting officer; solicitations should advise potential bidders and offerors that this review is available.

(ii) Agency procedures and/or solicitations must—

(A) Notify potential bidders and offerors whether this independent review is available as an alternative to consideration by the contracting officer of a protest, or is available as an appeal of a contracting officer decision on a protest.

(B) Ensure that the protester receives a redacted copy of the agency's final technical evaluation of the protester's proposal, and a redacted copy of the source selection decision, if required for the procurement, within a reasonable time after the protester elects the independent review;

(C) Provide the protester an opportunity to raise additional protest grounds, within a reasonable time set by the independent review official, if the protester first became aware or should have been aware of the basis for those additional grounds as a result of disclosure according to paragraph (B) of this section.

(iii) Agencies must designate the official(s) who are to conduct this independent review, but the official(s) need not be within the contracting officer's supervisory chain. When possible, officials designated to conduct the independent review should not have been previously personally involved in the procurement.

(b) *Timeliness.* (1) The agency may consider the merits of any protest that is not filed in time for good cause shown, or where it determines that a protest raises issues significant to the agency's acquisition system.

(2) Filing an agency protest does not extend the time for obtaining a stay at GAO. Agencies may include, as part of the agency protest process, a voluntary suspension period when agency protests are denied and the protester subsequently files at GAO.

(3) If there is an agency appellate review of the contracting officer's decision on the protest, it will not extend GAO's timeliness requirements. Therefore, any subsequent protest to the GAO must be filed within 10 days of knowledge of initial adverse agency action (4 CFR 21.2(a)(3)).

(c) *Protest decisions.* (1) Agencies must make their best efforts to resolve agency protests within 35 days after the protest is received by the contracting officer or an official conducting an independent review requested according to paragraph (a)(5).

(2) Protest decisions must be well-reasoned, explain the agency position for sustaining or denying the protest, and be provided to the protester using a method that provides evidence of receipt.

33.105 Protests to GAO.

33.105–1 GAO Bid Protest Regulations.

Procedures for protests to GAO are found at 4 CFR part 21, Bid Protest Regulations.

33.105–2 Preaward.

(a) If the agency receives notice of a protest from GAO before award, then a contract may not be awarded unless the head of the contracting activity authorizes contract award and performance. The head of the contracting activity, on a nondelegable basis, may authorize contract award and performance upon a written finding that—

(1) Urgent and compelling circumstances which significantly affect the interest of the United States will not

allow waiting for a decision from GAO; and

(2) Award is likely to occur within 30 days of the written finding.

(b) An agency may not authorize contract award and performance until the agency has notified GAO of the finding in paragraph (a) of this section.

(c) When a protest against the making of an award is received and award will be withheld pending disposition of the protest, the contracting officer should inform the offerors whose offers might become eligible for award of the protest. If appropriate, those offerors should be requested, before the time for accepting their offers expires, to extend the time for acceptance to avoid the need for resolicitation. If offers are not extended, then consideration should be given to proceeding under paragraph (a) of this section.

33.105–3 Postaward.

(a) If a protest is likely after award, then the contracting officer may direct the contractor to stop performance within the time period contained in paragraph (b)(1) of this section if the contracting officer makes a written determination that—

(1) A protest is likely to be filed; and

(2) Delay of performance is, under the circumstances, in the best interests of the United States.

(b)(1) If the agency receives notice of a protest from the GAO within 10 days after contract award or within 5 days after a debriefing date offered to the protester for any debriefing that is required by 15.206–2 or 15.301–1, whichever is later, then the contracting officer must immediately suspend performance or terminate the awarded contract, unless the head of the contracting activity authorizes contract performance.

(2) The head of the contracting activity, on a nondelegable basis, may authorize contract performance, upon a written finding that—

(i) Contract performance will be in the best interests of the United States; or

(ii) Urgent and compelling circumstances that significantly affect the interests of the United States will not permit waiting for the GAO's decision.

(c) An agency must not authorize contract performance until the agency has notified the GAO of the finding in paragraph (b)(2) of this section.

(d) When it is decided to suspend performance or terminate the awarded contract, the contracting officer should attempt to negotiate a mutual agreement on a no-cost basis.

(e) When the agency receives notice of a protest filed with the GAO after the dates contained in paragraph (b)(1) of this section, the contracting officer does not have to suspend contract performance or terminate the awarded contract unless the contracting officer believes that an award may be invalidated and a delay in receiving the supplies or services is not prejudicial to the Government's interest.

33.105–4 Other procedures.

(a) *Agency report.* Upon notice that a protest has been filed with GAO, the contracting officer must immediately notify legal counsel and begin compiling the information necessary for the agency report that will be filed with GAO.

(b) *Notice to GAO.* If the agency has not fully implemented the GAO recommendations with respect to a solicitation for a contract or an award or a proposed award of a contract within 60 days of receiving the GAO recommendations, then the head of the contracting activity must report the failure to the GAO by 5 days later. The report must explain the reasons why the GAO's recommendation, exclusive of costs, has not been followed by the agency.

33.106 Protests at the U.S. Court of Federal Claims.

Procedures for protests at the U.S. Court of Federal Claims are set forth in the rules of the U.S. Court of Federal Claims, found at *https://www.uscfc.uscourts.gov/filing-bid-protest.*

33.107 Solicitation provision and contract clause.

(a) Insert the provision at 52.233–2, Service of Protest, in solicitations if the acquisition value exceeds the simplified acquisition threshold, including those for commercial products or commercial services.

(b) Insert the clause at 52.233–3, Protest After Award, in all solicitations and contracts, including those for commercial products or commercial services, except cost reimbursement contracts. Use the clause with its Alternate I for cost reimbursement contracts.

Subpart 33.2—Disputes and Appeals

33.200 Scope.

41 U.S.C. chapter 71, Contract Disputes, establishes procedures and requirements for asserting and resolving claims subject to the Disputes statute.

33.201 Definitions.

As used in this subpart—

Accrual of a claim means the date when all events that fix the alleged liability of either the Government or the contractor and permit assertion of the claim were known or should have been known. For liability to be fixed, some injury must have occurred. However, monetary damages need not have been incurred.

Alternative dispute resolution (ADR) means any type of procedure or combination of procedures voluntarily used to resolve issues in controversy. These procedures may include, but are not limited to, conciliation, facilitation, mediation, fact-finding, minitrials, arbitration, and use of ombudsmen.

Defective certification means a certificate that alters or otherwise deviates from the language in 52.233–1(d)(2)(iii) or which is not executed by a person authorized to bind the contractor with respect to the claim. Failure to certify must not be deemed to be a defective certification.

Issue in controversy means a material disagreement between the Government and the contractor that (1) may result in a claim or (2) is all or part of an existing claim.

Misrepresentation of fact means a false statement of substantive fact, or any conduct that leads to the belief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead.

33.202 Applicability.

(a) Except as specified in paragraph (b) below, this subpart applies to any express or implied contract covered by the Federal Acquisition Regulation.

(b) This subpart does not apply to any contract with—

(1) A foreign government or agency of that government; or

(2) An international organization or a subsidiary body of that organization, if the agency head determines that the application of the Contract Disputes statute to the contract would not be in the public interest.

(c) This subpart applies to all disputes with respect to contracting officer decisions on matters ''arising under'' or ''relating to'' a contract. Agency Boards of Contract Appeals (BCAs) (*e.g.,* Armed Services Board of Contract Appeals or Civilian Board of Contract Appeals) authorized under the Disputes statute continue to have all of the authority they possessed before the Disputes statute about disputes arising under a contract, as well as authority to decide disputes relating to a contract.

(d) The clause at 52.233–1, Disputes, recognizes the ''all disputes'' authority established by the Disputes statute, and states certain requirements and limitations of the Disputes statute to guide contractors and contracting

agencies. The clause is not intended to affect the rights and obligations of the parties as provided by the Disputes statute or to constrain the authority of the statutory agency BCAs in handling and deciding contractor appeals under the Disputes statute.

33.203 The Disputes statute and Public Law 85–804.

(a) A contractor's allegation that it is entitled to rescission or reformation of its contract in order to correct or mitigate the effect of a mistake must be treated as a claim under the Dispute statute.

(b) A claim that is first submitted to the contracting officer for consideration under the Disputes statute and is either denied or not approved in its entirety under the Disputes statute may be presented by the contractor as a request for relief under Public Law 85–804 (50 U.S.C. 1431–1435) as implemented by subpart 50.1.

33.204 Policy.

As a matter of policy, the Government tries to resolve all contractual issues in controversy by mutual agreement at the contracting officer's level. Reasonable efforts should be made to resolve controversies before submitting a claim.

33.205 Postaward.

33.205–1 Contractor claim.

(a) *Contractor claims against the Government.* (1) Contractor requirements for submission of claims are located at 52.233–1(d).

(2) The contracting officer must document in the contract file the date of receipt of a claim submitted by a contractor.

(b) *Government claims against a contractor.* The contracting officer must issue a written decision on any Government claim against a contractor within 6 years after accrual of the claim, unless the contracting parties agreed to a shorter time period, or the claim is based on a contractor claim involving fraud.

33.205–2 Contractor certification.

(a) Contractor requirements for certification of claims exceeding $100,000 are located at 52.233–1(d).

(b) Use the aggregate amount of both increased and decreased costs to determine when the dollar thresholds requiring certification are met (see example in 15.403–3(b)(3)(i) regarding certified cost or pricing data).

(c) A defective certification does not deprive a court or an agency BCA of jurisdiction over that claim. Before the entry of a final judgment by a court or a decision by an agency BCA, the court or agency BCA must require a defective certification to be corrected.

33.205–3 Interest on claims.

(a) The Government must pay interest on a contractor's claim on the amount found due and unpaid from the date that—

(1) The contracting officer receives the claim (certified if required by 33.205–2); or

(2) Payment otherwise would be due, if that date is later, until the date of payment.

(b) Simple interest on claims must be paid at the rate, fixed by the Secretary of the Treasury as provided in the Disputes statute, which applies to the period during which the contracting officer receives the claim and then at the rate that applies for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim. (See the clause at 52.232–17 for the right of the Government to collect interest on its claims against a contractor).

(c) Interest must be paid on claims having defective certifications starting on the date that the contracting officer initially receives the claim until the date the claim was paid, see 52.233–1(h).

33.205–4 Suspected fraudulent claims.

If the contractor is unable to support any part of the claim and evidence reveals that the inability is due to misrepresentation of fact or to fraud on the part of the contractor, the contracting officer must refer the matter to the agency official responsible for investigating fraud.

33.205–5 Contracting officer's authority.

(a) Contracting officers are authorized, within any specific limitations defined in their warrants, to decide or resolve all claims arising under or relating to a contract subject to the Disputes statute, except this authority does not extend to—

(1) A claim or dispute for penalties or forfeitures prescribed by statute or regulation that another Federal agency is specifically authorized to administer, settle, or determine; or

(2) The settlement, compromise, payment or adjustment of any claim involving fraud.

(b) Contracting officers can use ADR procedures to resolve claims, according to agency policies and 33.205–8.

33.205–6 Contracting officer's decision.

(a) When a claim by or against a contractor cannot be satisfied or settled by mutual agreement and a decision on the claim is necessary, the contracting officer must—

(1) Review the facts relevant to the claim;

(2) Get help from legal and other advisors;

(3) Coordinate with the contract administration officer or contracting office, as appropriate; and

(4) Prepare a written decision that—

(i) Includes the contracting officer's decision and supporting rationale for the decision reached;

(ii) Substantially conveys the following:

''This is the final decision of the Contracting Officer. You may appeal this decision to the agency board of contract appeals. If you decide to appeal, you must, within 90 days from the date you receive this decision, mail or otherwise furnish written notice to the agency board of contract appeals and provide a copy to the Contracting Officer from whose decision this appeal is taken. The notice must indicate that an appeal is intended, refer to this decision, and identify the contract by number.

With regard to appeals to the agency board of contract appeals, you may, solely at your election, proceed under the board's—

(1) Small claim procedure for claims of $50,000 or less or, in the case of a small business concern (as defined in the Small Business Act and regulations under that Act), $150,000 or less; or

(2) Accelerated procedure for claims of $100,000 or less.

Instead of appealing to the agency board of contract appeals, you may bring an action directly in the United States Court of Federal Claims (except as provided in 41 U.S.C. 7102(d), regarding Maritime Contracts) within 12 months of the date you receive this decision''; and

(iii) Makes a demand for payment prepared according to 32.604 and 32.605 in all cases where the decision results in a finding that the contractor is indebted to the Government.

(b) The contracting officer must furnish a copy of the decision to the contractor by certified mail, return receipt requested, or by any other method that provides evidence of receipt. This requirement applies to decisions on claims initiated by or against the contractor.

(c) The contracting officer must issue the decision within the following statutory time limitations:

(1) For claims of $100,000 or less, 60 days after receiving a written request from the contractor that a decision be given within that period, or within a reasonable time after receipt of the claim if the contractor does not make such a request.

(2) For claims over $100,000, 60 days after receiving a certified claim; *provided, however,* that if a decision will not be issued within 60 days, the contracting officer must notify the contractor, within that period, of the time within which a decision will be issued.

(d) The contracting officer must issue a decision within a reasonable time, taking into account—

(1) The size and complexity of the claim;

(2) The adequacy of the contractor's supporting data; and

(3) Any other relevant factors.

(e) The contracting officer has no obligation to render a final decision on any claim exceeding $100,000 that contains a defective certification, if within 60 days after receiving the claim, the contracting officer notifies the contractor in writing of the reasons why any attempted certification was found to be defective.

(f) In the event of undue delay by the contracting officer in providing a decision on a claim, the contractor may request the tribunal concerned to direct the contracting officer to issue a decision in a specified time period that the tribunal decides.

(g) Any failure of the contracting officer to issue a decision within the required time periods will be deemed a decision by the contracting officer denying the claim and will authorize the contractor to file an appeal or suit on the claim.

(h) The amount determined payable under the decision, less any portion already paid, should be paid, if otherwise proper, without awaiting contractor action concerning appeal. Such payment must be without prejudice to the rights of either party.

33.205–7 Obligation to continue performance.

(a)(1) Before the passage of the Disputes statute, the obligation to continue performance applied only to claims arising under a contract. However, the Disputes statute, at 41 U.S.C. 7103(g), authorizes agencies to require a contractor to continue contract performance according to the contracting officer's decision pending a final resolution of any claim arising under, or relating to, the contract.

(2)(i) A claim arising under a contract is a claim that can be resolved under a contract clause, other than the clause at 52.233–1, Disputes, that provides for the relief sought by the claimant. However, relief for such a claim can also be sought under the clause at 52.233–1.

(ii) A claim relating to a contract is a claim that cannot be resolved under a contract clause other than the clause at 52.233–1.

(b) In the event of a dispute relating to the contract, the contracting officer must consider providing, through appropriate agency procedures, financing of the continued performance, provided that the Government's interest is properly secured.

33.205–8 Alternative dispute resolution (ADR).

(a)(1) Agencies are encouraged to use ADR procedures as much as possible. Certain factors, however, may make the use of ADR inappropriate (see 5 U.S.C. 572(b)).

(2) Except for arbitration conducted according to the Administrative Dispute Resolution Act (ADRA), (5 U.S.C. 571, *et seq.*), agencies have authority that is separate from that provided by the ADRA to use ADR procedures to resolve issues in controversy. Agencies may also choose to proceed under the authority and requirements of the ADRA.

(b) The objective of using ADR procedures is to increase the opportunity to relatively quickly and cheaply resolve an issue in controversy. Essential elements of ADR include—

(1) An issue in controversy;

(2) Both parties choose to participate in the ADR process;

(3) Both parties agree on alternative procedures and terms instead of formal litigation; and

(4) Officials of both parties who have the authority to resolve the issue in controversy choose to participate in the process.

(c)(1) If the contracting officer rejects a contractor's request for ADR proceedings, the contracting officer must give the contractor a written explanation citing one or more of the conditions in 5 U.S.C. 572(b) or such other specific reasons that ADR procedures are inappropriate to resolve the dispute.

(2) If a contractor rejects a request for ADR see 52.233–1(g).

(d) ADR procedures may be used at any time that the contracting officer has authority to resolve the issue in controversy. If a claim has been submitted, ADR procedures may apply to all or a portion of the claim. When ADR procedures are used after a contracting officer has issued their final decision, the contracting officer's use of ADR procedures does not alter any of the time limitations or procedural requirements for filing an appeal of the contracting officer's final decision. The use of ADR procedures does not constitute a reconsideration of the final decision.

(e) When appropriate, a neutral person may be used to help resolve the issue in controversy using the procedures the parties chose.

(f) The confidentiality of ADR proceedings must be protected consistent with 5 U.S.C. 574.

(g)(1) A solicitation must not require arbitration as a condition of award, unless arbitration is otherwise required by law.

(2) An agreement to use arbitration must be in writing and must specify a maximum award that the arbitrator may issue, as well as any other conditions limiting the range of possible outcomes.

(h) Binding arbitration, as an ADR procedure, may be agreed to only as specified in agency guidelines. Such guidelines must provide advice on the appropriate use of binding arbitration and when an agency has authority to settle an issue in controversy through binding arbitration.

33.206 Contract clauses.

(a) Insert the clause at 52.233–1, Disputes, in solicitations and contracts, including those for commercial products or commercial services, except when the conditions in 33.202(b) apply.

(b) Insert the clause at 52.233–4, Applicable Law for Breach of Contract Claim in all solicitations and contracts including those for commercial products or commercial services.

PART 39—ACQUISITION OF INFORMATION AND COMMUNICATION TECHNOLOGY

Sec.

39.001 Applicability.
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39.104 ICT accessibility standards.
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Subpart 39.2—Evaluation and Award

39.201 ICT accessibility standards for indefinite-quantity contracts.

Subpart 39.3—Postaward

39.301 ICT accessibility standards for task orders or delivery orders.

Authority: 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

39.001 Applicability.

This part—

(a) Applies to acquiring information and communication technology (ICT) and supplies and services that use ICT.

(b) Emphasizes strategies that promote faster acquisition and secure deployment of technology that is new or emerging.

(c) Does not apply to acquiring information technology for national security systems, as defined in 40 U.S.C. 11103.

39.002 Definitions.

As used in this part—

Cybersecurity means prevention of damage to, protection of, and restoration of computers, electronic communications systems, electronic communications services, wire communication, and electronic communication, including information contained therein, to ensure its availability, integrity, authentication, confidentiality, and nonrepudiation (see NIST Special Publication 800–53 revision 5 at *https://csrc.nist.gov/pubs/sp/800/53/r5/upd1/final*).

NICE Workforce Framework for Cybersecurity (NICE Framework) means a common language for describing cybersecurity work which expresses the work as task statements and includes knowledge and skill statements that provide a foundation for learners including students, job seekers, and employees (see NIST Special Publication 800–181 and additional tools to implement it at *https://www.nist.gov/itl/applied-cybersecurity/nice/nice-framework-resource-center*).

Positioning, navigation, and timing (PNT) services means any system, network, or capability that provides a reference to calculate or augment the calculation of longitude, latitude, altitude, or transmission of time or frequency data, or any combination thereof (*e.g.,* Global Positioning System) (see section 2(a) of Executive Order 13905 of February 12, 2020, Strengthening National Resilience Through Responsible Use of Positioning, Navigation, and Timing Services).

Subpart 39.1—Presolicitation

39.101 Management of risk.

(a) Before entering into an information technology contract, agencies should analyze risks, benefits, and costs. Reasonable risk taking is appropriate as long as risks are controlled and mitigated.

(b) Both contracting and program office officials are responsible for assessing, monitoring and controlling risk throughout the acquisition process.

39.102 Modular contracting.

(a) Agencies should use modular contracting (*i.e.,* use one or more contracts to acquire information technology systems in successive, interoperable increments) to acquire major systems of information technology, to the maximum extent practicable (see 41 U.S.C. 2308). Agencies may also use modular contracting to acquire non-major systems of information technology.

(b) When acquiring an information technology system (*i.e.,* either a major system or non-major system), contracting officers may divide it into several smaller increments that—

(1) Are easier to manage individually than would be possible in one comprehensive acquisition;

(2) Address complex information technology objectives incrementally to enhance the likelihood of achieving workable systems or solutions for attainment of those objectives;

(3) Provide for delivery, implementation, and testing of workable systems or solutions in discrete increments, each of which comprises a system or solution that is not dependent on any subsequent increment in order to perform its principal functions; and

(4) Provide an opportunity for subsequent increments to take advantage of any evolution in technology or needs that occur during implementation and use of the earlier increments.

(c) To promote compatibility, each increment should comply with common or commercially acceptable information technology standards when available and appropriate, and be compatible with other (including earlier and later) increments.

(d) When using modular contracting, agencies should, to the maximum extent practicable—

(1) Award a contract for an increment within 180 days after the date the solicitation is issued. If an award cannot be made within 180 days, agencies should consider cancelling the solicitation in accordance with 14.209(j) or 15.106(e).

(2) Schedule deliveries under the contract to occur within 18 months after the solicitation is issued.

39.103 Information technology services.

(a) When acquiring information technology services, solicitations must not describe any minimum experience or educational requirements for proposed contractor personnel, unless the contracting officer determines that the needs of the agency—

(1) Cannot be met without that requirement; or

(2) Require using other than a performance-based acquisition (see subpart 37.1).

(b) When acquiring information technology support services (*e.g.,* backup and recovery services, technical support) or cybersecurity support services (*e.g.,* threat analysis, vulnerability analysis, digital forensics, supply chain risk management), which are a subset of information technology services, agencies must—

(1) Ensure any cybersecurity workforce tasks, knowledge, skills, and work role requirements align with the NICE Framework;

(2) Ensure any cybersecurity workforce tasks, knowledge, skills, and work role requirements comply with paragraph (a) of this section; and

(3) Require any offers, quotes, and reporting requirements (*e.g.,* contract deliverables) to align with the NICE Framework in effect at the time of the solicitation.

39.104 ICT accessibility standards.

39.104–1 Scope.

(a) This section implements section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), and the Architectural and Transportation Barriers Compliance Board's (U.S. Access Board) ICT accessibility standards at 36 CFR 1194.1.

(b) Further information on section 508 is available at *https://www.section508.gov.*

39.104–2 Policy.

When acquiring ICT, agencies must ensure that—

(a) Federal employees with disabilities have access to and use of information and data that is comparable to the access and use by Federal employees who are not individuals with disabilities; and

(b) Members of the public with disabilities seeking information or services from an agency have access to and use of information and data that is comparable to the access to and use of information and data by members of the public who are not individuals with disabilities.

39.104–3 Applicability.

(a) *General.* Unless an exception at 39.104–4 or an exemption at 39.104–5 applies, acquisitions for ICT supplies and services must meet the applicable ICT accessibility standards at 36 CFR 1194.1.

(b) *Commercial products and commercial services.* When acquiring commercial products and commercial services, an agency must comply with those ICT accessibility standards that

can be met with supplies or services that are available in the commercial marketplace and that best address the agency's needs but see 39.104–5(a)(3).

(c) *Legacy ICT.* Any component or portion of existing ICT (*i.e.,* ICT that was procured, maintained, or used on or before January 18, 2018) is not required to comply with the current ICT accessibility standards if it—

(1) Complies with an earlier standard issued according to section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d, which is set forth in Appendix D to 36 CFR 1194.1); and

(2) Has not been altered (*i.e.,* a change that affects interoperability, the user interface, or access to information or data) after January 18, 2018.

(d) *Alterations of legacy ICT.* When altering any component or portion of existing ICT, after January 18, 2018, modify the component or portion to conform to the current ICT accessibility standards in 36 CFR 1194.1.

39.104–4 Exceptions.

(a) The requirements in 39.104–2 do not apply to acquisitions for—

(1) *National security systems.* ICT operated by agencies as part of a national security system, as defined by 40 U.S.C. 11103(a);

(2) *Incidental contract items.* ICT acquired by a contractor incidental to a contract, (*i.e.,* for in-house use by the contractor to perform the contract); or

(3) *Maintenance or monitoring spaces.* The portions of ICT that are operable parts (*i.e.,* hardware-based user controls for activating, deactivating, or adjusting ICT) or status indicators, and that are located in spaces frequented only by service personnel for maintenance, repair, or occasional monitoring of equipment.

(b) When an exception applies, the contracting officer must obtain, as a part of the requirements documentation, written confirmation from the requiring activity that an exception, in accordance with paragraph (a)(1), (2), or (3) of this section, applies to the ICT supply or service (see 7.103(b)(6)). The contracting officer must include this documentation in the contract file.

39.104–5 Exemptions.

(a) *Allowable exemptions.* An agency may grant an exemption for the following:

(1) *Undue burden.* When an agency determines the acquisition of ICT conforming with all the applicable ICT accessibility standards would impose an undue burden on the agency, compliance with the ICT accessibility standards is only required to the extent that it would not impose an undue burden. In determining whether conformance to one or more ICT accessibility standards would impose an undue burden, an agency must consider the extent to which conformance would impose significant difficulty or expense considering the agency resources available to the program or component for which the ICT supply or service is being procured.

(2) *Fundamental alteration.* When an agency determines that acquisition of ICT that conforms with all applicable ICT accessibility standards would result in a fundamental alteration in the nature of the ICT, such acquisition is required to conform only to the extent that conformance will not fundamentally alter the nature of the ICT.

(3) *Nonavailability of conforming commercial products and commercial services.* Where there are no commercial products and commercial services that fully conform to the ICT accessibility standards, the agency must procure the supplies or service available in the commercial marketplace that best meets the ICT accessibility standards consistent with the agency's needs.

(b) *Alternative means of access.* An agency must provide individuals with disabilities access to and use of information and data by an alternative means to meet the identified needs when an exemption in paragraphs (a)(1), (2), or (3) of this section applies.

(c) *Documentation.* When an exemption applies, the contracting officer must obtain, as part of the requirements documentation, a written determination from the requiring activity explaining the basis for the exemption in paragraphs (a)(1), (2) or (3) of this section. The contracting officer must include this documentation in the contract file.

(1) *Undue burden.* A determination of undue burden must address why and to what extent compliance with applicable ICT accessibility standards constitutes an undue burden.

(2) *Fundamental alteration.* A determination of fundamental alteration must address the extent to which compliance with the applicable ICT accessibility standards would fundamentally alter the nature of the ICT.

(3) *Nonavailability of conforming commercial products and commercial services.* A determination of commercial products and commercial services nonavailability must include—

(i) A description of the market research performed;

(ii) A listing of the requirements that cannot be met; and

(iii) The rationale for determining that the ICT to be procured best meets the ICT accessibility standards in 36 CFR 1194.1, consistent with the agency's needs.

39.105 Positioning, navigation, and timing services.

When acquiring products, systems, or services that depend on PNT services (*e.g.,* Global Positioning System), the contracting officer must work with the requiring activity to ensure the requirements documents incorporate guidance from the Federal PNT Services Acquisitions Guidance (available at *https://www.cisa.gov/resources-tools/resources/federal-positioning-navigation-and-timing-services-acquisitions-guidance*), as appropriate (see section 4(e) of Executive Order 13905, of February 12, 2020, Strengthening National Resilience Through Responsible Use of Positioning, Navigation, and Timing Services).

Subpart 39.2—Evaluation and Award

39.201 ICT accessibility standards for indefinite-quantity contracts.

(a) The contracting officer is not required to confirm an exception (see 39.104–4) or determine an exemption (see 39.104–5) before awarding an indefinite-quantity contract.

(b) The contract must identify which supplies and services the contractor indicates as compliant and show where to find full details of compliance (*e.g.,* a contractor may provide a link to a vendor's website identifying supplies or services that are fully compliant with ICT accessibility standards).

Subpart 39.3—Postaward

39.301 ICT accessibility standards for task orders or delivery orders.

When issuing a task order or delivery order under an indefinite-quantity contract, the requiring activity and ordering activity must ensure compliance with the ICT accessibility standards. For a noncompliant ICT item, the requiring activity must document an exception (see 39.104–4) or exemption (see 39.104–5).

PART 40—INFORMATION SECURITY AND SUPPLY CHAIN SECURITY

Sec.

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40.304–7 Solicitation provision and contract clause.

Authority: 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

40.000 Scope of part.

(a) This part addresses broad security requirements that apply to acquisitions of products and services. It outlines policies and procedures for managing information security and supply chain security when acquiring products and services that include, but are not limited to, information and communications technology (ICT).

(b) See parts 24 and 46 for more policies and procedures related to managing information security and supply chain security.

(c) Information and supply chain policies and procedures that are unrelated to security are covered in other parts of the FAR (*e.g.,* part 22 for labor and human trafficking risks).

40.001 Definitions.

As used in this part—

Information means any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, electronic, or audiovisual forms (see OMB Circular A–130, Managing Information as a Strategic Resource).

Supply chain means a linked set of resources and processes between multiple tiers of developers that begins with the sourcing of products and services and extends through the design, development, manufacturing, processing, handling, and delivery of products and services to the acquirer (see OMB Circular A–130, Managing Information as a Strategic Resource).

Supply chain risk, as defined in 41 U.S.C. 4713(k), means the risk that any person may sabotage, maliciously introduce unwanted functionality, extract data, or otherwise manipulate the design, integrity, manufacturing, production, distribution, installation, operation, maintenance, disposition, or retirement of covered articles so as to surveil, deny, disrupt, or otherwise manipulate the function, use, or operation of the covered articles or information stored or transmitted on the covered articles.

Subpart 40.1—Processing Supply Chain Risk Information

40.101 Definition.

As used in this subpart—

Supply chain risk information includes, but is not limited to, information that describes or identifies:

(1) Functionality and features of covered articles, including access to data and information system privileges;

(2) The user environment where a covered article is used or installed;

(3) The ability of a source to produce and deliver covered articles as expected;

(4) Foreign control of, or influence over, a source or covered article (*e.g.,* foreign ownership, personal and professional ties between a source and any foreign entity, legal regime of any foreign country in which a source is headquartered or conducts operations);

(5) Implications to government mission(s) or assets, national security, homeland security, or critical functions associated with use of a covered source or covered article;

(6) Vulnerability of Federal systems, programs, or facilities;

(7) Market alternatives to the covered source;

(8) Potential impact or harm caused by the possible loss, damage, or compromise of a product, material, or service to an organization's operations or mission;

(9) Likelihood of a potential impact or harm, or the possible exploitation of a system;

(10) Security, authenticity, and integrity of covered articles and their supply and compilation chains;

(11) Capacity to mitigate risks identified;

(12) Factors that may reflect upon the reliability of other supply chain risk information; and

(13) Any other considerations that would factor into analyzing the security, integrity, resilience, quality, trustworthiness, or authenticity of covered articles or sources.

40.102 Sharing supply chain risk information.

Executive agencies must share relevant supply chain risk information with the Federal Acquisition Security Council (FASC) if the executive agency determines there is a reasonable basis to conclude a substantial supply chain risk associated with a source or covered article exists (see 41 CFR 201–1.201).

Subpart 40.2—Security Prohibitions and Exclusions

40.201 Definitions.

As used in this subpart—

American Security Drone Act-covered foreign entity means an entity included on a list developed and maintained by the Federal Acquisition Security Council (FASC) and published in the System for Award Management (SAM) at *https://www.sam.gov* (section 1822 of Pub. L. 118–31, 41 U.S.C. 3901 note prec.).

Backhaul means intermediate links between the core network, or backbone network, and the subnetworks at the edge of the network (*e.g.,* connecting cell phones/towers to the core telephone network). Backhaul can be wireless (*e.g.,* microwave) or wired (*e.g.,* fiber optic, coaxial cable, Ethernet).

Business operations means engaging in commerce in any form, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

Covered application means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.

Covered article, as defined in 41 U.S.C. 4713(k), means—

(1) Information technology, as defined in 40 U.S.C. 11101, including cloud computing services of all types;

(2) Telecommunications equipment or telecommunications service, as those terms are defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

(3) The processing of information on a Federal or non-Federal information

system, subject to the requirements of the Controlled Unclassified Information program (see 32 CFR part 2002); or

(4) Hardware, systems, devices, software, or services that include embedded or incidental information technology.

Covered foreign country means The People's Republic of China.

Covered procurement, as defined at 41 U.S.C. 4713(k), means—

(1) A source selection for a covered article involving either a performance specification, as provided in 41 U.S.C. 3306(a)(3)(B), or an evaluation factor, as provided in 41 U.S.C. 3306(b)(1)(A), relating to a supply chain risk, or where supply chain risk considerations are included in the agency's determination of whether a source is a responsible source as defined in 41 U.S.C. 113 (see part 9);

(2) The consideration of proposals for, and issuance of a task or delivery order for, a covered article, as provided in 41 U.S.C. 4106(d)(3), where the task or delivery order contract includes a contract clause establishing a requirement relating to a supply chain risk;

(3) Any contract action involving a contract for a covered article where the contract includes a clause establishing requirements relating to a supply chain risk; or

(4) Any other procurement in a category of procurements determined appropriate by the Federal Acquisition Regulatory Council, with the advice of the Federal Acquisition Security Council. The Federal Acquisition Regulatory Council has not yet determined any categories.

Covered procurement action, as defined at 41 U.S.C. 4713(k), means any of the following actions, if the action takes place in the course of conducting a covered procurement—

(1) The exclusion of a source that fails to meet qualification requirements established under 41 U.S.C. 3311 (see part 9) for the purpose of reducing supply chain risk in the acquisition or use of covered articles;

(2) The exclusion of a source that fails to achieve an acceptable rating with regard to an evaluation factor providing for the consideration of supply chain risk in the evaluation of proposals for the award of a contract or the issuance of a task or delivery order;

(3) The determination that a source is not a responsible source as defined in 41 U.S.C. 113 (see part 9) based on considerations of supply chain risk; and

(4) The decision to withhold consent for a contractor to subcontract with a particular source or to direct a contractor to exclude a particular source from consideration for a subcontract under the contract.

Covered telecommunications equipment or services means—

(1) Telecommunications equipment produced (*i.e.* manufactured, designed, developed, or licensed intellectual property) by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance equipment and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications services or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications equipment, telecommunications services, video surveillance equipment, or video surveillance services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence (DNI) or the Director of the Federal Bureau of Investigation (FBI), reasonably believes to be an entity owned or controlled (see 31 CFR 800.208) by, or otherwise connected to, the government of a covered foreign country.

FASCSA order means any of the following orders issued under the Federal Acquisition Supply Chain Security Act (FASCSA) that requires removing covered articles from executive agency information systems or excluding one or more named sources or named covered articles from executive agency procurement actions, as described in 41 CFR 201–1.303(d) and (e):

(1) The Secretary of Homeland Security may issue FASCSA orders that apply to civilian agencies, to the extent not covered by paragraph (2) or (3) of this definition. This type of FASCSA order may be referred to as a Department of Homeland Security (DHS) FASCSA order.

(2) The Secretary of Defense may issue FASCSA orders that apply to the Department of Defense (DoD) and national security systems other than sensitive compartmented information systems. This type of FASCSA order may be referred to as a DoD FASCSA order.

(3) The Director of National Intelligence (DNI) may issue FASCSA orders that apply to the intelligence community and sensitive compartmented information systems, to the extent not covered by paragraph (2) of this definition. This type of FASCSA order may be referred to as a DNI FASCSA order.

Federal Acquisition Security Council (FASC) means the Council established under 41 U.S.C. 1322(a).

Information technology, as defined in 40 U.S.C. 11101(6) —

(1) Means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use—

(i) Of that equipment; or

(ii) Of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(2) Includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but

(3) Does not include any equipment acquired by a Federal contractor incidental to a Federal contract.

Intelligence community, as defined by 50 U.S.C. 3003(4), means—

(1) The Office of the Director of National Intelligence;

(2) The Central Intelligence Agency;

(3) The National Security Agency;

(4) The Defense Intelligence Agency;

(5) The National Geospatial-Intelligence Agency;

(6) The National Reconnaissance Office;

(7) Other offices within DoD for the collection of specialized national intelligence through reconnaissance programs;

(8) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Space Force, the Coast Guard, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Department of Energy;

(9) The Bureau of Intelligence and Research of the Department of State;

(10) The Office of Intelligence and Analysis of the Department of the Treasury;

(11) The Office of Intelligence and Analysis of the Department of Homeland Security; or

(12) Such other elements of any department or agency as may be designated by the President, or designated jointly by the Director of National Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

Kaspersky Lab-covered article means any hardware, software, or service that—

(1) Is developed or provided by a Kaspersky Lab-covered entity;

(2) Includes any hardware, software, or service developed or provided in whole or in part by a Kaspersky Lab-covered entity; or

(3) Contains components using any hardware or software developed in whole or in part by a Kaspersky Lab-covered entity.

Kaspersky Lab-covered entity means—

(1) Kaspersky Lab;

(2) Any successor entity to Kaspersky Lab, including any change in name, *e.g.,* ''Kaspersky'';

(3) Any entity that controls, is controlled by, or is under common control with Kaspersky Lab; or

(4) Any entity of which Kaspersky Lab has a majority ownership.

Marginalized populations of Sudan means—

(1) Adversely affected groups in regions authorized to receive assistance under section 8(c) of the Darfur Peace and Accountability Act (Pub. L. 109–344) (50 U.S.C. 1701 note); and

(2) Marginalized areas in Northern Sudan described in section 4(9) of such Act.

National security system, as defined in 44 U.S.C. 3552, means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency—

(1) The function, operation, or use of which involves intelligence activities; involves cryptologic activities related to national security; involves command and control of military forces; involves equipment that is an integral part of a weapon or weapons system; or is critical to the direct fulfillment of military or intelligence missions, but does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications); or

(2) Is protected at all times by procedures established for information that have been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept classified in the interest of national defense or foreign policy.

Sensitive compartmented information means classified information concerning or derived from intelligence sources, methods, or analytical processes, which is required to be handled within formal access control systems established by the Director of National Intelligence.

Sensitive compartmented information system means a national security system authorized to process or store sensitive compartmented information.

Source means a non-Federal supplier, or potential supplier, of products or services, at any tier.

Subsidiary means an entity in which more than 50 percent of the entity is owned directly by a parent corporation or through another subsidiary of a parent corporation.

Telecommunications equipment means equipment used to produce, transmit, emit, or receive, or store signals, signs, writing, images, sounds, or intelligence of any nature, by wire, cable, satellite, fiber optics, laser, radio, or any other electronic, electric, electromagnetic, or acoustically coupled means.

Telecommunications services means services used to produce, transmit, emit, or receive, or store signals, signs, writing, images, sounds, or intelligence of any nature, by wire, cable, satellite, fiber optics, laser, radio, or any other electronic, electric, electromagnetic, or acoustically coupled means.

Unmanned aircraft means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft (49 U.S.C. 44801(11)).

Unmanned aircraft system means an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required for the operator to operate safely and efficiently in the national airspace system (49 U.S.C. 44801(12)). See 41 CFR 201–1.101 for the list of associated elements identified by the FASC.

Video surveillance equipment means equipment used to identify or monitor activities or information through use of imaging, visual, or audio methods.

Video surveillance services means services used to identify or monitor activities or information through use of imaging, visual, or audio methods.

40.202 Prohibitions.

Agencies are prohibited from contracting, including renewing or extending contracts, with contractors that operate, provide, or use certain products or services that violate any of the following prohibitions (see the clause at 52.240–3 for details regarding the scope of each prohibition and whether there are any exceptions, exemptions, or waiver possibilities):

(a) *TikTok/ByteDance.* Covered Application (Section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117–328)).

(b) *Kaspersky.* Kaspersky Lab-covered article (Section 1634 of Division A of the National Defense Authorization Act (NDAA) for Fiscal Year 2018 (Pub. L. 115–91).

(c) *Drones.* Unmanned Aircraft Systems Manufactured or Assembled by American Security Drone Act—Covered Foreign Entities (American Security Drone Act of 2023, within the NDAA for Fiscal Year 2024 (Pub. L. 118–31, Div. A, Title XVIII, Subtitle B, 41 U.S.C. 3901 note prec.)).

(d) *Telecommunications and video surveillance equipment.* (Paragraphs (a)(1)(A) and (a)(1)(B) of section 889 of the John S. McCain NDAA for Fiscal Year 2019 (Pub. L. 115–232)).

(e) *Governmentwide exclusion orders.* FASCSA orders (sections 1823 and 1826 of Pub. L. 118–31, 41 U.S.C. 3901 note prec.).

(f) *Covered procurement actions* (41 U.S.C. 4713).

(g) *Office of Foreign Assets Control (OFAC) restrictions.* OFAC Restrictions (International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 *et seq.*)).

(h) *Sudan prohibition.* Accountability and Divestment Act of 2007 (Pub. L. 110–174).

(i) *Iran prohibitions.* Section 6(b)(1)(A) of Iran Sanctions Act (50 U.S.C. 1701 note) and section 6(b)(1)(B) of Iran Sanctions Act (50 U.S.C. 1701 note).

40.203 General procedures.

40.203–1 Assessment of proposals.

Except where an exemption, exception, or waiver applies, the contracting officer should work with the program office or requiring activity to review proposals if needed to ensure they are not proposing delivery of a product or service in violation of the prohibitions in 40.202, such as a FASC-prohibited unmanned aircraft system (drone).

40.203–2 Disclosures.

If the offeror submits a disclosure according to 52.240–2, the contracting officer must follow agency procedures to determine if an exception or exemption applies with any prohibition or if a waiver may be applicable in accordance with 40.203–3.

40.203–3 Waivers and exceptions.

(a) An acquisition may be either fully or partially covered by a waiver or

exception. Partial waiver or exception coverage occurs when an applicable waiver or exception covers only portions of the products or services being procured or provided by a source. If the requiring activity notifies the contracting officer that the acquisition is partially covered by an approved exception, individual waiver, or class waiver, then the contracting officer must work with the program office or requiring activity to identify the products or services that are subject to the waiver or exception in the solicitation, request for quotation, or order.

(b) The contracting officer, in accordance with agency procedures, must decide whether to pursue a waiver or exception or to make award to an offeror that does not require a waiver or exception. If a full or partial waiver or exception is being pursued, then the contracting officer may not make an award until written approval is obtained that the waiver or exception has been granted.

40.203–4 Reporting requirements.

If a contractor submits a report according to 52.240–3, the contracting officer must follow agency procedures to determine if an exception or exemption applies with any prohibition, or if a waiver may be applicable in accordance with 40.203–3.

40.204 Specific procedures.

40.204–1 FASCSA orders.

(a) *Identifying applicable FASCSA orders.* Whether FASCSA orders apply to a particular acquisition depends on the contracting office's agency, the scope of the FASCSA order, the funding, and whether the requirement involves certain types of information systems (see the definition of ''FASCSA order'' at 40.201).Coordinate with the program office or requiring activity to identify the FASCSA order(s) that apply to the acquisition as follows:

(1) Unless the program office or requiring activity instructs the contracting officer otherwise, FASCSA orders apply as follows:

(i) Contracts awarded by civilian agencies will be subject to DHS FASCSA orders.

(ii) Contracts awarded by DoD will be subject to DoD FASCSA orders. See paragraph (e)(1) of 52.240–3, Security Prohibitions and Exclusions.

(2) For acquisitions where the program office or the requiring activity instructs the contracting officer to select specific types of FASCSA orders, select ''yes'' or ''no'' for each applicable type of FASCSA order. See paragraph (e)(1) of 52.240–3, Security Prohibitions and Exclusions, with its Alternate I.

(b) *Federal Supply Schedules, Governmentwide acquisition contracts, and multi-agency contracts specific procedures.*

(1) *Applying FASCSA orders.* An agency awarding this type of contract must apply FASCSA orders to the basic contract award. Ordering activity contracting officers may use this contract vehicle without taking further steps to identify applicable FASCSA orders in the order. The contracting officer awarding the basic contract would select ''yes'' for all FASCSA orders (*i.e.,* ''DHS FASCSA Order'' ''DoD FASCSA Order'' and ''DNI FASCSA Order'') (see paragraph (e)(1) of 52.240–3, Security Prohibitions and Exclusions, with its Alternate I). If the contracting officer becomes aware of a newly issued applicable FASCSA order, then the agency awarding the basic contract must modify the basic contract to remove any covered article, or any products or services produced or provided by a source, prohibited by the newly issued FASCSA order.

(2) *Interagency acquisitions.* For an interagency acquisition (see subpart 17.5) where the funding agency differs from the awarding agency, the funding agency must determine the applicable FASCSA orders.

(c) *Updating the solicitation or contract for new FASCSA orders.* The contracting officer must update a solicitation or contract if the program office or requiring activity determines it needs to—

(1) Amend the solicitation to include FASCSA orders in effect after the date the solicitation was issued but before contract award; or

(2) Modify the contract to include FASCSA orders issued after the date of contract award.

(i) Any such modification should take place within a reasonable amount of time, but no later than 6 months from the program office or requiring activity's determination.

(ii) If the contract is not modified within the time specified in paragraph (c)(2)(i) of this section, then document the contract file with the reason why the contract could not be modified within this timeframe.

(d) *Agency specific procedures.* Follow agency procedures for implementing FASCSA orders not identified in SAM.

(e) *Exceptions.*

(1) An executive agency required to comply with a FASCSA order may submit a request that the order or some of its provisions not apply to—

(i) The agency;

(ii) Specific actions of the agency or a specific class of acquisitions;

(iii) Actions of the agency for a period of time before compliance with the order is practicable; or

(iv) Other activities, as appropriate, that the requesting agency identifies.

(2) The executive agency must submit a written exception request to the official that issued the order, unless other instructions for submission are provided by the applicable FASCSA order.

(3) Provide the following information in the exception request for the issuing official to review and evaluate the request:

(i) Identification of the applicable FASCSA order.

(ii) A description of the exception sought, including, if limited to only a portion of the order, a description of the order provisions from which an exception is sought.

(iii) The name or a description sufficient to identify the covered article or the product or service provided by a source that is subject to the order from which an exception is sought.

(iv) Compelling justification for why an exception should be granted, such as the impact of the order on the agency's ability to fulfill its mission-critical functions, or considerations related to the national interest, including national security reviews, national security investigations, or national security agreements.

(v) Any alternative mitigations to reduce the risks addressed by the FASCSA order.

(vi) Any other information requested by the issuing official.

40.204–2 Covered procurement actions.

(a) *Agency responsibilities.* Agencies must establish procedures to ensure compliance with the requirements in 41 U.S.C. 4713. Covered procurement actions apply to a single covered procurement or a class of covered procurements as determined by the agency carrying out the action.

(b) *Identifying covered procurement actions.* The contracting officer must identify in the solicitation and contract any source or specified product or service that is subject to covered procurement action identified as applicable by the program office or requiring activity.

(c) *Updating the solicitation or contract for new covered procurement actions.* The contracting officer must update a solicitation or contract if the program office or requiring activity determines there is a need to—

(1) Amend the solicitation to include a source or specified product or service

that is subject to a covered procurement action in effect after the date the solicitation was issued but before contract award; or

(2) Modify the contract to include a source or specified product or service that is subject to a covered procurement action issued after the date of contract award.

(i) Any such modification should take place within a reasonable amount of time, but no later than 6 months from the program office or requiring activity's determination.

(ii) If the contract is not modified within the time specified in paragraph (b)(2)(i) of this section, then document the contract file with the reason why the contract could not be modified within this timeframe.

(d) *Agency specific procedures.* Follow agency procedures for implementing covered procurement actions for any source or specific product not identified in SAM.

(e) *Waivers.* The contracting officer must follow agency procedures for reviewing any waiver requests from an offeror or contractor.

40.204–3 Sudan prohibition.

(a) *Waivers.*

(1) The President may waive the certification within the provision at 52.240–2(f) on a case-by-case basis if the President determines and certifies in writing to the appropriate congressional committees that it is in the national interest to do so.

(2) An agency seeking waiver of the requirement must submit the request to the Administrator of the Office of Federal Procurement Policy (OFPP), allowing sufficient time for review and approval. Upon receipt of the waiver request, OFPP must consult with the President's National Security Council and the Department of State to assess foreign policy aspects of making a national interest recommendation.

(3) Agencies may request a waiver on an individual or class basis; however, waivers are not indefinite and can be cancelled if warranted.

(i) Request a waiver only when the class of supplies is not available from any other source, and it is in the national interest.

(ii) Prior to submitting the waiver request, the agency head must review and clear the request.

(iii) All waiver requests must include the following information:

(A) Agency name and point of contact name, telephone number, and email address.

(B) Offeror's name, complete mailing address, and point of contact name, telephone number, and email address.

(C) Description/nature of product or service.

(D) The total price and length of the contract.

(E) Justification, with market research demonstrating that no other offeror can provide the product or service and stating why the product or service must be procured from this offeror, as well as why it is in the national interest for the President to waive the prohibition on contracting with this offeror that conducts restricted business operations in Sudan, including consideration of foreign policy aspects identified in consultation(s) pursuant to paragraph(a)(2)of this section.

(F) Documentation regarding the offeror's past performance and integrity.

(G) Information regarding the offeror's relationship or connection with other firms that conduct prohibited business operations in Sudan.

(H) Any humanitarian efforts engaged in by the offeror, the human rights impact of doing business with the offeror for which the waiver is requested, and the extent of the offeror's business operations in Sudan.

(4) The consultation in paragraph (a)(2) of this section and the information in paragraph (a)(3)(iii) of this section will be considered in determining whether to recommend that the President waive the certification within the provision at 52.240–2(f). In accordance with section 6(c) of the Sudan Accountability and Divestment Act of 2007, OFPP will semiannually submit a report to Congress, on April 15th and October 15th, on the waivers granted.

(b) *Remedies.* Upon the determination of a false certification within the provision at 52.240–2(f)—

(1) The contracting officer may terminate the contract;

(2) The suspending and debarring official (SDO) may suspend the contractor in accordance with the procedures in part 9; and

(3) The SDO may debar the contractor for a period not to exceed 3 years in accordance with the procedures in part 9.

40.204–4 Iran prohibitions.

(a) *Waivers.*

(1) An agency seeking a waiver of the representation and certifications in the provision at 52.240–2(g) or the prohibition in the clause at 52.240–3(d)(4), consistent with section 6(b)(5) of the Iran Sanctions Act or 22 U.S.C. 8551(b), respectively, and the Presidential Memorandum of September 23, 2010 (75 FR 67025), must submit the request to OFPP, allowing sufficient time for review and approval.

(2) Agencies may request a waiver on an individual or class basis; however, waivers are not indefinite and can be cancelled, if warranted.

(i) Request a class waiver only when the class of supplies or equipment is not available from any other source and it is in the national interest.

(ii) Prior to submitting the waiver request, the agency head must review and clear the request.

(3) In general, all waiver requests should include the following information:

(i) Agency name and point of contact name, telephone number, and email address.

(ii) Offeror's name, complete mailing address, and point of contact name, telephone number, and email address.

(iii) Description/nature of product or service.

(iv) The total price and length of the contract.

(v) Justification, with market research demonstrating that no other offeror can provide the product or service and stating why the product or service must be procured from this offeror.

(A) If the offeror exports sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran, provide rationale why it is in the national interest for the President to waive the prohibition on contracting with this offeror, as required by 22 U.S.C. 8551(b).

(B) If the offeror conducts activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act or engages in any transaction that exceeds the certification transaction threshold within the provision at 52.240–2(g)(1)(iii) with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act, provide rationale why it is essential to the national security interests of the United States for the President to waive the prohibition on contracting with this offeror, as required by section 6(b)(5) of the Iran Sanctions Act.

(vi) Documentation regarding the offeror's past performance and integrity.

(vii) Information regarding the offeror's relationship or connection with other firms that—

(A) Export sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(B) Conduct activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; or

(C) Conduct any transaction that exceeds the certification transaction threshold within the provision at 52.240–2(g)(1)(iii) with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act.

(viii) Describe—

(A) The sensitive technology and the entity or individual to which it was exported (*i.e.,* the government of Iran or an entity or individual owned or controlled by, or acting on behalf or at the direction of, the government of Iran);

(B) The activities in which the offeror is engaged for which sanctions may be imposed under section 5 of the Iran Sanctions Act; or

(C) The transactions that exceed the certification transaction threshold within the provision at 52.240–2(g)(1)(iii) with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act.

(b) *Remedies.* Upon the determination of a false certification within the provision at 52.240–2(g)(1)(ii) or at 52.240–2(g)(1)(iii), the agency must take one or more of the following actions:

(1) The contracting officer terminates the contract in accordance with procedures in part 49, or for commercial products and commercial services, see part 12.

(2) The SDO suspends the contractor in accordance with the procedures in part 9.

(3) The SDO debars the contractor for a period of at least two years in accordance with the procedures in part 9.

40.205 Solicitation provision and contract clause.

(a) Insert the provision at 52.240–2, Security Prohibitions and Exclusions—Representations and Certifications, in all solicitations including those for commercial products or commercial services.

(b)(1) Except as prescribed in paragraph (b)(2), insert the clause at 52.240–3, Security Prohibitions and Exclusions, in all solicitations and contracts including those for commercial products or commercial services.

(2) Insert the clause with its Alternate I including for acquisitions of commercial products or commercial services in—

(i) Federal Supply Schedules, Governmentwide acquisition contracts, and multi-agency contracts; and

(ii) Where the program office or the requiring activity instructs the contracting officer to select specific types of FASCSA orders.

Subpart 40.3—Safeguarding Information

40.300 Scope.

(a) This subpart provides policies and procedures for safeguarding classified information, controlled unclassified information (CUI), and covered Federal information.

(b) Part 27, Patents, Data, and Copyrights, contains policy and procedures for safeguarding classified information in patent applications and patents.

40.301 Definitions.

As used in this subpart—

Covered contractor information system means an information system that is owned, or operated by or for, a contractor and that processes, stores, or transmits covered Federal information.

Covered Federal information means information provided by or created for the Government, when that information is other than—

(1) Simple transactional information (such as that necessary to process payments);

(2) Information already publicly released (such as on public websites), or marked for public release, by the Government;

(3) Federally-funded basic and applied research at colleges, universities, and laboratories in accordance with National Security Decision Directive 189;

(4) CUI; or

(5) Classified information.

Handle or handling means any use of information, including but not limited to accessing, processing, collecting, developing, receiving, transmitting, storing, marking, safeguarding, transporting, disseminating, reusing, and disposing of the information.

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).

40.302 Classified information.

40.302–1 National industrial security program.

This section provides policies and procedures to implement the National Industrial Security Program according to Executive Order 12829, January 6, 1993 (58 FR 3479, January 8, 1993), titled ''National Industrial Security Program'' (NISP). Executive Order 12829 amends Executive Order 10865, February 20, 1960 (25 FR 1583, February 25, 1960), entitled ''Safeguarding Classified Information Within Industry,'' as amended by Executive Order 10909, January 17, 1961 (26 FR 508, January 20, 1961). This program safeguards Federal Government classified information. The following publications implement the program:

(a) *National Industrial Security Program Operating Manual* (NISPOM) (32 CFR part 117).

(b) DoD Manual 5220.32 Volume 1, National Industrial Security Program: Industrial Security Procedures for Government Activities.

40.302–2 Responsibilities of contracting officers.

(a) Review all proposed solicitations to determine whether offerors or contractors may handle classified information.

(b) Nondefense agencies that have industrial security services agreements with DoD and DoD components must use the Contract Security Classification Specification, DD Form 254. The contracting officer or authorized agency representative is the approving official for the DD Form 254 associated with the prime contract and must ensure the DD Form 254 is properly prepared, distributed by and coordinated with requirements and security personnel, according to agency procedures.

40.302–3 Contract clause.

(a) Insert the clause at 52.240–4, Classified Information, in solicitations and contracts when the contract may handle classified information, including those for commercial products or commercial services unless the conditions specified in paragraph (d) of this section apply.

(b) If a cost contract for research and development with an educational institution is considered, use the clause with its Alternate I.

(c) If a construction or architect-engineer contract, including construction that is a commercial service where employee identification is required for security reasons use the clause with its Alternate II.

(d) If the contracting agency is not covered by the NISP and has prescribed a clause and alternates that are substantially the same as those at 52.240–4, the contracting officer must use the agency-prescribed clause as required by agency procedures.

40.303 Covered Federal information.

40.303–1 Applicability.

This section applies to all acquisitions, including acquisitions of commercial products or commercial services when a contractor may handle covered Federal information or a contractor's information system may contain covered Federal information.

40.303–2 Contract clause.

Insert the clause at 52.240–5, Covered Federal Information, in solicitations and contracts including those for commercial products and commercial services when the contractor or a subcontractor at any tier may handle covered Federal information.

40.304 Controlled unclassified information (CUI).

40.304–1 Definitions.

As used in this section—

Authorized holder is an individual, agency, organization (*e.g.,* contractor), or group of users that is permitted to handle CUI, in accordance with this part.

CUI Basic means the subset of CUI for which the authorizing law, regulation, or Governmentwide policy does not set out specific handling or dissemination controls. CUI Basic must be handled according to the uniform set of controls set forth in 32 CFR part 2002 and the CUI Registry.

CUI Categories means those types of information for which laws, regulations, or Governmentwide policies require or permit agencies to exercise safeguarding or dissemination controls, and which has been listed in the CUI Registry.

CUI incident means unauthorized disclosure, improper modification, improper destruction of CUI, in any form or medium, or unauthorized access to the information system on which the CUI resides. Improper handling of CUI (*e.g.,* unmarked or mismarked CUI) is not a CUI incident unless the improper handling has resulted in an unauthorized disclosure, improper modification, or improper destruction of CUI.

CUI Registry means the online repository for all information, guidance, policy, and requirements on handling CUI. Among other information, the CUI Registry identifies all approved CUI categories and subcategories, provides general descriptions for each, identifies the basis for controls, establishes markings, and includes guidance on handling procedures (see *https://www.archives.gov/cui*).

CUI Specified means the subset of CUI for which the authorizing law, regulation, or Governmentwide policy contains specific handling controls that it requires or permits agencies to use and that differ from those for CUI Basic. The CUI Registry indicates which laws, regulations, and Governmentwide policies include such specific requirements.

Lawful Government purpose means any activity, mission, function, operation, or endeavor that the Government authorizes or recognizes as within the scope of its legal authorities or the legal authorities of non-executive branch entities such as State and local law enforcement.

Limited dissemination control means any control identified on the CUI Registry that agencies may use to limit or specify CUI dissemination.

On behalf of an agency means a contractor uses or operates an information system or maintains or collects information for the purpose of processing, storing, or transmitting Federal information, and those activities are not incidental to providing a service or product to the Government.

Unauthorized disclosure means when an authorized holder of CUI intentionally or unintentionally discloses, accesses, or observes CUI without a lawful Government purpose, in violation of restrictions imposed by safeguarding or dissemination controls, or contrary to limited dissemination controls.

40.304–2 Authorities.

(a) Executive Order 13556 of November 4, 2010, entitled ''Controlled Unclassified Information.''

(b) 32 CFR part 2002, Controlled Classified Information (CUI).

40.304–3 Applicability.

(a) The requirements for handling CUI in this section apply when an offeror or contractor is expected to handle CUI, including instances when CUI resides on or transits through contractor information systems or within contractor facilities.

(b) The CUI requirements in the clause at 52.240–7, Controlled Unclassified Information, and SF XXX only apply when CUI will be involved in the contract. Offerors and contractors whose performance does not involve CUI will not be required to receive a Standard Form XXX and will not be subject to the requirements of FAR 52.240–6 or 52.240–7.

40.304–4 Policy.

(a) The requiring activity will identify any CUI in the SF XXX, Controlled Unclassified Information (CUI) Requirements, which must be incorporated in the contract. Contractors are required to safeguard only the CUI that is identified in the SF XXX. However, see 52.240–7(c).

(b) Applicable CUI requirements can be waived by the Government in accordance with 32 CFR 2002.38.

40.304–5 Procedures.

(a) For each requirement, except those exclusively for the acquisition of commercially available off-the-shelf items, the contracting officer must obtain from the requiring activity an SF XXX that—

(1) Identifies what CUI is involved in the contract; and

(2) Specifies if and how the contractor is to identify and mark CUI involved in the contract (*e.g.,* when the contractor is generating or developing the CUI, or when the purpose of the contract is to mark CUI).

(b)(1) If the contracting officer has a reason to question the information on the SF XXX, the contracting officer must request that the requiring activity verify that the SF XXX is accurate.

(2) If the requiring activity has marked the ''Yes'' box in Part A of SF XXX, the contracting officer must incorporate the SF in the solicitation and contract and the clause at 52.240–7, as prescribed at 40.304–6, to communicate requirements for handling CUI during contract performance.

(3) If the requiring activity has marked the ''No'' box in Part A of SF XXX, the contracting officer must include in the contract file a copy of the SF XXX.

(c) If the requiring activity states that there should be controlled access to the contents of the SF XXX or the SF XXX is marked as CUI itself, contracting officers must follow agency procedures for handling the SF XXX.

(d) If the contracting officer is notified or otherwise discovers that there is, or potentially could be CUI involved in the contract and it was not properly identified on an SF XXX, the contracting officer must coordinate with the requiring activity to determine if the information is CUI. If the agency determines that the information is CUI, then the agency must take the following steps:

(1) If the agency wants the contractor to handle this kind of CUI during performance of the contract, the contracting officer must—

(i) Coordinate with the requiring activity to have the SF XXX updated and CUI marked;

(ii) Modify the contract to incorporate the new SF XXX and, if CUI was not previously anticipated under the contract, to incorporate the clause at 52.240–7; and

(iii) Consider any request for equitable adjustment submitted by the contractor, as appropriate.

(2) If the agency does not want the contractor to handle this kind of CUI, the contracting officer must coordinate with the requiring activity to address the CUI (*e.g.,* retrieve the CUI) and must convey such instructions to the contractor.

(e) Refer to 3.104–4 for procedures related to the disclosure, protection, and marking of contractor proprietary business information, contractor bid or proposal information, and source selection information submitted to the Government.

(f)(1) Follow agency procedures when providing any CUI to an offeror to ensure offeror compliance with the requirements in 32 CFR part 2002.

(2) Follow any applicable agency procedures for validating contractor compliance with the requirements of the clause at 52.240–7.

(g) If the contracting officer is provided a disclosure in accordance with 52.240–6(d), the contracting officer must follow agency procedures to determine if a waiver may be granted.

40.304–6 CUI incident reports.

(a) Agencies must protect against the improper use or release of information that includes contractor proprietary business information or contractor-attributional information to the extent required by law.

(b) Upon notification of a CUI incident at a non-Federally-controlled facility, the contracting officer must notify the requiring activity of the CUI incident as soon as practicable and in accordance with agency procedures. If the CUI incident occurs on an order against an indefinite delivery contract, the ordering agency contracting officer must notify the contracting officer for the indefinite delivery contract.

(c) When the contractor is required to provide information system images preserved under the requirements of paragraph (g)(4) of the clause at 52.240–7, in accordance with agency procedures, the contracting officer must provide instructions to the contractor for submitting the system images. The contractor is required to hold the system images for 90 days unless the Government declines interest.

(d)(1) The contracting officer must not interpret a contractor's report of a CUI incident to mean that the contractor or a subcontractor at any tier failed to provide adequate safeguards for CUI or otherwise failed to meet the requirements of the clause at 52.240–7, without an investigation resulting in determinations and findings by the agency.

(2) When a CUI incident is reported, the contracting officer must consult with appropriate agency personnel (*e.g.,* program office or requiring activity) before taking any action under the contract related to the CUI incident. When the contract includes the clause at 52.240–7, the contracting officer must consider such CUI incidents in the context of an overall assessment of the contractor's compliance with the requirements of the clause at 52.240–7.

(3) The contracting officer must consult with the appropriate agency personnel concerning any unmarked or mismarked CUI in accordance with agency procedures if they are notified by the contractor—

(i) There is potential unmarked or mismarked CUI; or

(ii) The contractor is not able to comply with one of the requirements in the clause at 52.240–7 due to conflict with another law or regulation.

40.304–7 Solicitation provision and contract clause.

(a) Insert the provision at 52.240–6, Notice of Controlled Unclassified Information Requirements, in solicitations that contain the clause at 52.240–7.

(b) Except for solicitations and contracts solely for the acquisition of commercially available off-the-shelf items, insert the clause at 52.240–7, Controlled Unclassified Information, and include an SF XXX Controlled Unclassified Information (CUI) Requirements, in solicitations and contracts if the requiring activity has marked the ''Yes'' box in Part A of the SF XXX.

Note: The following form, Controlled Unclassified Information (CUI), will not be published in the CFR.

BILLING CODE 6820–EP–P

CONTROLLED UNCLASSIFIED INFORMATION (CUI) REQUIREMENTS

This form is filled out by the department/agency (except for subcontracts, where the form may be tailored as appropriate and filled out by the prime contractor). See the instructions at the end of the form.

Solicitation/Contract Number: _____

Form Completion Date: _____

PART A: APPLICABILITY OF CUI REQUIREMENTS

The Contractor is expected to handle CUI under this contract: ☐ **Yes** ☐ **No**

If "Yes," Federal Acquisition Regulation (FAR) clause 52.240-7 applies to the contract.

PART B: CUI LOCATED WITHIN A FEDERALLY-CONTROLLED FACILITY

This contract involves CUI located within a Federally-controlled facility: ☐ **Yes** ☐ **No**

SECTION I: CUI HANDLING REQUIREMENTS

In addition to the CUI handling requirements identified in FAR 52.240-7, the Contractor must follow agency CUI policies identified in this section, including handling, and incident reporting requirements. The Contractor must ensure that any Contractor employees handling CUI within Federally-controlled facilities meet the following prerequisites for access to CUI.

PART C. CUI LOCATED WITHIN A NON-FEDERALLY-CONTROLLED FACILITY

This contract involves CUI located in a non-Federally-controlled facility: ☐ **Yes** ☐ **No**

SECTION I. CUI HANDLING REQUIREMENTS

(a) CUI Basic.

This contract involves CUI Basic: ☐ **Yes** ☐ **No**

If "No" is checked, proceed to paragraph (b) of this section for CUI Specified requirements.

The Contractor selects appropriate methods to meet the CUI Basic handling requirements for physical security and storage methods; mailing, reproduction, and transmission methods; and destruction methods in accordance with the Code of Federal Regulations (CFR) at 32 CFR 2002.14.

- CUI Basic category name, safeguarding and/or dissemination authority, and any indicator for identifying the CUI:

STANDARD FORM XXX XX/XXXX
Prescribed by GSA - FAR (48 CFR) 53.204-X

(b) CUI Specified.

This contract involves CUI Specified: ☐ **Yes** ☐ **No**

Following are the categories of CUI Specified and their Specified handling requirements:

- CUI Specified category name, safeguarding and/or dissemination authority, and any indicator for identifying the CUI:

Specify handling requirements *(For any handling aspects not described below, the requirements from 32 CFR 2002.14, will apply).*

(A) Additional, non-CUI markings:

(B) Submission requirements:

(C) Physical and storage requirements:

(D) Access requirements and restrictions:

(E) Limited dissemination control markings (LDCM):

(F) Mailing and transmission requirements:

(G) Encryption requirements:

(H) Information systems and system security requirements:

(1) The CUI Specified will be on the following:

☐ Federal information system(s) *(operated "on behalf of an agency")*:

☐ Non-Federal information system(s) *(e.g., contractor's internal IT system, third party cloud provider)*.

(2) Additional system security requirements as prescribed by law, regulation or Governmentwide policy (LRGWP) for this category of CUI Specified:

(I) Destruction:

(J) Decontrol, retention, return instructions:

Add Specified Category

Remove Specified Category

STANDARD FORM XXX XX/XXXX

SECTION II. CONTRACTOR MARKING REQUIREMENTS

The Contractor will be responsible for marking CUI identified in section I: ☐ **Yes** ☐ **No**

If yes, comply with the following marking requirements:

- CUI category name and marking:

(A) Applicable LDCMs from the CUI Registry:

(B) Any required additional CUI Specified markings from LRGWP:

Add Category

Remove Category

PART D. APPLICABILITY OF NIST SP 800-172

The Contractor must comply with requirements from NIST SP 800-172, Enhanced Security Requirements for Protecting CUI, identified by the agency.

☐ **Yes** ☐ **No**

If yes, the agency will identify requirements for NIST SP 800-172 outside of this form. The organizational defined parameters (ODP) at https://www.ecfr.gov/current/title-32/subtitle-A/chapter-I/subchapter-G/part-170/subpart-D/ection-170.14 must be applied for any applicable security requirements identified by the agency.

STANDARD FORM XXX XX/XXXX

DRAFT

INSTRUCTIONS

General

1. **Who fills out the form?**
The department/agency fills out the form, not the contractor. If a contractor wishes to use the form to convey requirements to a subcontractor, the contractor may tailor the requirements as appropriate and fill out the form for the subcontractor.

2. **What is controlled unclassified information (CUI)?**
CUI is information that must not be public (see the definition at the Federal Acquisition Regulation (FAR) 2.101). For information about CUI, CUI Basic, CUI specified, and the CUI Registry, see FAR 40.304 and 52.240-7, and the National Archives and Records Administration (NARA) regulations at the Code of Federal Regulations (CFR) at 32 CFR part 2002. An example of CUI is "contractor proprietary business information".

PART A. APPLICABILITY OF CUI REQUIREMENTS

Does the solicitation or contract involve CUI - either as the primary purpose of or incidental to the contract? *(i.e., will the contractor handle CUI, or develop or operate a system that contains CUI at any point?)*

If no, the contract will **not** involve CUI, then check "No". Stop here. The remainder of the form will be left blank.

If yes, the contract will involve CUI, then check "Yes" and complete the form where applicable for your solicitation or contract. FAR clause 52.240-7, Controlled Unclassified Information, will be used in solicitations and contracts when this form indicates "Yes."

PART B. CUI LOCATED WITHIN A FEDERALLY-CONTROLLED FACILITY

Will this contract involve CUI located within a Federally-controlled facility?

If no, the CUI is **not** located within a Federally-controlled facility, then check "No" and proceed to Part C.

If yes, then check "Yes" and complete section I in Part B.

SECTION I. CUI HANDLING REQUIREMENTS.

If the contract involves CUI that requires contractor employees to meet certain prerequisites before being allowed to access the CUI, the agency must identify the access prerequisites in the fill-in field. The contractor must ensure its employees who will need access to the information meet the prerequisites.

Such prerequisites may arise from an approved limited dissemination control marking (LDCM) listed on the CUI Registry or from a CUI Specified authority and may include LDCMs or lawful Government purpose (LGP) restrictions that a person must meet in order to access the CUI.

Examples: (1) For a contract involving CUI that has a no foreign nationals "NOFORN" limited dissemination control, the agency might enter "Employees handling [category of CUI] under this contract must not be foreign nationals". (2) For a contract involving CUI Specified category SP-CVTI, the agency might enter "Employees must have a national security background investigation."

This does not include general background investigations, clearance processes, hiring requirements, ID card processes, etc. that involve access to agency systems in general or to agency facilities; this covers only CUI-specific requirements.

PART C. CUI LOCATED WITHIN A NON-FEDERALLY-CONTROLLED FACILITY

Will this contract involve CUI located within a non-Federally-controlled facility?

If no, the CUI is NOT located within a non-Federally-controlled facility, then check "No". Stop here; the remaining sections in Part C will not be applicable.

If yes, then check "Yes" and complete sections I and II.

SECTION I. CUI HANDLING REQUIREMENTS.

Paragraphs (a) and (b). General Instructions

Is the CUI involved CUI Basic, CUI Specified, or both?

If the CUI involved is **CUI Basic only**, then check "Yes" at paragraph (a) and complete only the information under paragraph (a). If the CUI does not involve CUI Basic information at all, check "No" at paragraph (a).

If the CUI involved is **CUI Specific only**, then check "Yes" at paragraph (b) and complete only the information under paragraph (b). If the CUI does not involve CUI Specified information at all, check "No" at paragraph (b).

If the CUI involved is **both** CUI Basic AND CUI Specific, then check "Yes" at both paragraphs (a) and (b) and complete the information under both paragraphs.

CUI Basic categories

For each category of CUI Basic, identify in the fill-in field the following information: CUI Basic category name, safeguarding and/or dissemination authority, and indicator for identifying CUI.

CUI Specified categories

If CUI Specified is involved, check "Yes" to "This contract includes CUI Specified."

- For the field titled, "CUI Specified category name, safeguarding and/or dissemination authority, and any indicator for identifying CUI" enter the applicable information in the fill-in field. The information for the CUI Specified category will need to be entered in subparagraphs (A) to (J). Include only requirements established by the authorizing law, regulation or Governmentwide Policy (LRGWP). The requirements from section I(b)(i), 32 CFR 2002.14 will apply for any handling aspects not described in subparagraphs (A) to (J).

  For elements that do not have a CUI Specified requirement, enter "See CUI Basic" to use the CUI requirements for that element. For elements (A) and (B), there is no CUI Basic equivalent, enter "n/a" or "none" if there is no CUI Specified requirement.

  For elements (D), (H), and (J), the agency may instead enter "See requirements in section I(b)(ii) [(A), (B), or (C)]" (respectively), if the agency already entered requirements there and wants to use the same ones here. Be sure to also state which category if there is more than one category listed.

Enter the CUI Specified requirements as follows:

(A) Additional, non-CUI markings: Some authorities for CUI Specified include requirements for warning banners, indicators, and other similar additional markings. If the contractor is required to take action in response to these markings, or required to add these markings to the information, identify the markings in the fill-in field with any accompanying actions triggered by the markings or accompanying lists that the contractor must be aware of. List actionable additional markings only.

(B) Submission requirements: Some authorities for CUI Specified include requirements for how the CUI must be submitted to the agency such as in an envelope, or via a formal request to withhold the information from the public. Include such LRGWP requirements applicable to this category.

(C) Physical and storage requirements: Identify any physical security or storage requirements the LRGWP requires for this category.

(D) Access requirements and restrictions: Identify the following when it is in furtherance of a lawful Government purpose for the contractor to permit access to the CUI (including to support contract performance):

- Restrictions on access to the CUI,
- Limited dissemination requirements in the LRGWP (these are not the same as CUI limited dissemination controls on the CUI Registry that the agency chooses to apply; those are identified under paragraph (E) below),
- Approval process for access,
- Lists of authorized individuals, and
- Procedures the LRGWP requires the contractor to follow before permitting or restricting access to the CUI.

(E) Limited dissemination control markings: Identify any limited dissemination control markings (LDCMs) from the CUI Registry that apply to the CUI Specified information and itemize how the contractor must comply. For any LDCM that includes lists or other similar information, include the additional information for each. Enter "none" if the agency chooses not to apply an LDCM to this category.

(F) Mailing and transmission requirements: Include any applicable LRGWP requirements for physical mailing/transmission and electronic mailing/transmission, as appropriate.

(G) Encryption requirements: Some CUI Specified LRGWPs contain requirements for encrypting the CUI. Identify those requirements, their standards, and the circumstances in which they apply (such as while the electronic information is at rest, while in transit, or both).

(H) Information systems and system security requirements: Identify the type of information system, either Federal information system (operated "on behalf of the agency") or non-Federal information system, and associated system security requirements at FAR clause 52.240-7, Controlled Unclassified Information.

(I) Destruction: Include any requirements for destruction contained in the applicable LRGWP.

(J) Decontrol, retention, return instructions: Identify category-specific instructions for handling the CUI Specified category. If it has a "destroy by" date, identify category-specific automatic decontrol situations that apply and what the contractor should do in the automatic decontrol situations. Any instructions regarding whether the contractor will retain the CUI or return it to the agency (either during the contract or upon termination), by when, via what method, etc. Include any LRGWP requirements for decontrol, retention, or return. Instructions may also include records management instructions and instructions for transferring CUI to the National Archives.

Use the "Add Specified Category" button to create an entry for each CUI Specified category.

SECTION II. CONTRACTOR MARKING REQUIREMENTS

Will the contractor be responsible for marking the CUI identified in section I?

If no, the contractor will not be responsible for marking the CUI. Check "No" and proceed to Part D.

If yes, the contractor will be responsible for marking the CUI, then check "Yes" to "Contractor will be responsible for marking CUI identified in section I," and proceed with completing section II.

- **Enter the marking requirements**. Enter a category name and category marking in the "CUI category name and category marking" fill-in field. Markings must be applied in accordance with 32 CFR part 2002, the CUI Registry at https://www.archives.gov/CUI, and the CUI Marking Handbook. If the contractor will be marking all categories, and marking them all the same way, enter "All CUI identified in section I." The information for the CUI category will need to be entered in subparagraphs (A) and (B).
  - **(A) Applicable Limited Dissemination Control Markings (LDCMs) from the CUI Registry**: List in the fill-in field any applicable LDCM the contractor will be required to apply to the category.
  - **(B) Any required additional CUI Specified markings from law, regulation, or Governmentwide Policy (LRGWP)**: List in the fill-in field any additional markings required by LRGWP that the contractor will be required to apply to the category. These may include warning statements and indicators if the LRGWP requires them.

Use the "Add Category" button to create an entry for each CUI category with marking requirements.

PART D. APPLICABILITY OF NIST SP 800-172

Does the contractor have to comply with any requirements in NIST SP 800-172?

If no, the CUI will **not** require compliance with any requirements of NIST SP 800-172, then check "No". Stop here.

If yes, then check "Yes" and the agency must identify in the solicitation and contract the NIST SP 800-172 requirements with which the offeror or contractor must comply. The organizational defined parameters (ODPs) at: https://www.fedramp.gov/rev5/documents-templates must be applied for any applicable security requirements identified by the agency.

Note: Information system owners (i.e., contractor or subcontractor) will set specific security requirements for some of the security requirements. Visit https://www.fedramp.gov/rev5/documents-templates to learn more.

BILLING CODE 6820–EP–C

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 2. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

52.000 [Removed and Reserved]

■ 3. Remove and reserve section 52.000.

■ 4. Revise subpart 52.1 to read as follows:

Subpart 52.1—Instructions for Using Provisions and Clauses

Sec.

52.100 Scope of subpart.
52.101 Using Part 52.
52.102 [Reserved]
52.103 Identification of provisions and clauses.
52.104 Procedures for modifying and completing provisions and clauses.
52.105 Procedures for using alternates.
52.106 [Reserved]
52.107 Provisions and clauses prescribed in subpart 52.1.

52.100 Scope of subpart.

This subpart—

(a) Explains how to use part 52, including provision and clause numbers, prescriptions, and the Smart Matrix; and

(b) Describes procedures for incorporating, identifying, and modifying provisions and clauses in solicitations and contracts, and for using alternates.

52.101 Using Part 52.

(a) *Prescriptions.* Each provision or clause in subpart 52.X is prescribed in corresponding FAR text where the topic is addressed. The prescription includes all conditions, requirements, and instructions for using the provision or clause and its alternates, if any.

(b) *Smart Matrix.* Find the provision and clause selection tool at *https://www.acquisition.gov/smart-matrix.*

(c) *Dates.* All provisions, clauses, and alternates must be dated to avoid ambiguity, *e.g.,* (Feb. 2026).

52.102 [Reserved]

52.103 Identification of provisions and clauses.

(a) *Standard identification.* Provisions and clauses used without deviation, must be identified by number, title, and date. Deviations should themselves also have a date. Add ''(DEVIATION (DATE))'' after the provision or clause date, when using an authorized deviation.

(b) *Agency supplements.* Provisions or clauses that supplement the FAR must also be clearly identified by number, title, date, and name of the regulation. Deviations should themselves also have a date. Add ''(DEVIATION (DATE))'' after the provision or clause date, when using an authorized deviation.

(c) *Local/sub-agency level supplements.* Use number, title, date, and the name of the agency or suborganization within the agency that developed it.

52.104 Procedures for modifying and completing provisions and clauses.

Only make authorized changes. Do not modify provisions and clauses unless the FAR specifically authorizes or requires the modification. For example—

(a) ''The contracting officer may use a period shorter than 60 days (but not less than 30 days) in paragraph (x) of the clause''; or

(b) ''The contracting officer may substitute the words 'task order' for the word 'Schedule' wherever that word appears in the clause.'' or

(c) ''The patent number is ____ [*Contracting Officer fill in*], and the royalty rate is ____ [*Contracting Officer fill in*].''

52.105 Procedures for using alternates.

(a) The FAR provides different versions of provisions and clauses called ''alternates'' when needed for different situations. They are titled ''Alternate I,'' ''Alternate II,'' etc.

(b) When an alternate is used, its date must be cited along with the date of the basic provision or clause, *e.g.,* 52.209–3 First Article Approval-Contractor Testing (Oct 1983)-Alternate I (Dec 1983).

(c) Under certain circumstances, a provision or clause may be used with two or more alternates. In these circumstances, each of the applicable alternates must be cited, *e.g.,* 52.209–3 First Article Approval-Contractor Testing (Oct 1983)-Alternate I (Dec 1983) and Alternate II (Feb 1984). Never use an alternate to a specific provision or clause with a different provision or clause.

52.106 [Reserved]

52.107 Provisions and clauses prescribed in subpart 52.1.

(a) Insert the provision at 52.252–3, Alterations in Solicitation, in solicitations, including those for commercial products and commercial services, in order to revise or supplement, as necessary, other parts of the solicitation that apply to the solicitation phase only, except for any provision authorized for use with a deviation. Include clear identification of what is being altered.

(b) Insert the clause at 52.252–4, Alterations in Contract, in solicitations and contracts, including those for commercial products and commercial services, in order to revise or supplement, as necessary, other parts of the contract, or parts of the solicitations that apply to the contract phase, except for any clause authorized for use with a deviation. Include clear identification of what is being altered.

(c) Insert the provision at 52.252–5, Authorized Deviations in Provisions, in solicitations, including those for commercial products and commercial services, that include any FAR or supplemental provision with an authorized deviation.

(d) Insert the clause at 52.252–6, Authorized Deviations in Clauses, in solicitations and contracts, including those for commercial products and commercial services, that include any FAR or supplemental clause with an authorized deviation.

■ 5. Revise section 52.200 to read as follows:

52.200 Scope of subpart.

This subpart sets forth the text of all FAR provisions and clauses and gives a cross-reference to the location in the FAR that prescribes the provision or clause.

52.201–1 [Removed and Reserved]

■ 6. Remove and reserve section 52.201–1.

■ 7. Add section 52.201–2 to read as follows:

52.201–2 Computer Generated Forms.

As prescribed in 1.605, insert the following clause:

Computer Generated Forms (DATE)

(a) Any data required to be submitted on a Standard or Optional Form may be submitted on a computer generated version of the form, provided there is no change to the name, content, or sequence of the data elements on the form, and provided the form carries the Standard or Optional Form number and edition date.

(b) Unless prohibited by agency regulations, any data required to be submitted on an agency unique form prescribed by an agency supplement to the FAR may be submitted on a computer generated version of the form provided there is no change to the name, content, or sequence of the data elements on the form and provided the form carries the agency form number and edition date.

(c) If the Contractor submits a computer generated version of a form that is different from the required form, then the rights and obligations of the parties will be determined based on the content of the required form.

(End of clause)

■ 8. Revise section 52.202–1 to read as follows:

52.202–1 Definitions.

As prescribed in 2.201, insert the following clause:

Definitions (DATE)

When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless—

(a) The solicitation, or amended solicitation, provides a different definition;

(b) The contracting parties agree to a different definition;

(c) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning;

(d) The word or term is defined in FAR part 31, for use in the cost principles and procedures; or

(e) The word or term defines an acquisition-related threshold, and if the

threshold is adjusted for inflation as set forth in FAR 1.108, then the changed threshold applies throughout the remaining term of the contract, unless there is a subsequent threshold adjustment; see FAR 1.108.

(End of clause)

52.204–1 through 52.204–4 [Removed and Reserved]

■ 9. Remove and reserve sections 52.204–1 through 52.204–4.

■ 10. Revise section 52.204–5 to read as follows:

52.204–5 Women-Owned Business (Other Than Small Business).

As prescribed in 4.208(a), insert the following provision:

Women-Owned Business (Other Than Small Business) (DATE)

(a) *Definition. Women-owned business concern,* as used in this provision, means a concern that is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) *Representation. [Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (c)(1) of FAR 52.219–1, Small Business Program Representations, of this solicitation.]* The offeror represents that it ☐ is a women-owned business concern.

(End of provision)

52.204–6 [Removed and Reserved]

■ 11. Remove and reserve section 52.204–6.

■ 12. Revise section 52.204–7 to read as follows:

52.204–7 System for Award Management—Registration.

As prescribed in 4.208(b)(1), insert the following provision:

System for Award Management—Registration (DATE)

The Offeror must have an active Federal Government contracts registration in the System for Award Management (SAM) when submitting an offer or quotation in response to this solicitation and at the time of award. As part of the SAM registration process, the Government collects information, as described in paragraphs (b) through (d) of this provision, that is necessary to identify the Offeror and for the Offeror to be awarded Federal Government contracts. To register in SAM, go to *https://www.sam.gov.* Allow for processing time when registering in SAM. If the Offeror is not registered in SAM, it should register immediately after receiving this solicitation.

(a) *Definitions.* As used in this provision—

Commercial and Government Entity (CAGE) code has the meaning provided in the clause at the Federal Acquisition Regulation (FAR) 52.204–13, System for Award Management—Maintenance, of this solicitation.

Electronic Funds Transfer (EFT) indicator means a bank account identifier to establish additional System for Award Management records for identifying alternative EFT accounts (see FAR part 32) for the same entity.

Highest-level owner means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest-level owner.

Immediate owner means an entity, other than the offeror, that has direct control of the offeror. Indicators of control include, but are not limited to, one or more of the following: ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees. There may be more than one immediate owner (*e.g.,* joint ventures).

Predecessor means an entity whose assets were acquired by the offeror or another entity (most often through merger or acquisition) and whose affairs are now carried out by the offeror or the other entity under a new name.

Taxpayer identification number means the number required by the Internal Revenue Service (IRS) to be used by the offeror to report income tax and other returns. It may be either a Social Security Number or an Employer Identification Number.

Unique entity identifier (UEI) has the meaning provided in the clause at FAR 52.204–13, System for Award Management—Maintenance, of this solicitation.

(b) *Identifiers.* The Offeror must obtain and provide the following identifying information:

(1) *Unique entity identifier (UEI).*

(i) The Offeror must obtain a UEI to register in SAM. The Government will independently validate the existence and uniqueness of the Offeror before assigning a UEI to the Offeror. Go to *https://www.sam.gov* for instructions on obtaining a UEI.

(ii) The Offeror must enter, in the block with its name and address on the cover page of its offer, the annotation ''Unique Entity Identifier'' followed by the UEI that identifies the Offeror's name and address exactly as stated in the offer. The Offeror must also enter its EFT indicator, if applicable.

(iii) The Contracting Officer will use the UEI to verify that the Offeror has an active Federal Government contracts registration in SAM.

(2) *Taxpayer identification number (TIN).* The Offeror must provide its TIN or related information to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d); reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M; and implementing regulations issued by the IRS. The Offeror must consent for TIN validation; and

(3) *Commercial and Government Entity (CAGE) code.*

(i) The Offeror must provide a CAGE code and legal business name (Do not use a ''doing business as'' name) for—

(A) Itself;

(B) Its immediate owner(s), if any;

(C) Its highest-level owner, if any; and

(D) Any predecessor(s), or predecessor of an Offeror's predecessor, that held a Federal contract or grant within the last three years.

(ii) If the Offeror is in the United States or its outlying areas and does not already have a CAGE code assigned, the DLA CAGE Branch will assign a CAGE code to the Offeror as a part of the SAM registration process. For information on obtaining a CAGE code go to *https://cage.dla.mil/.*

(iii) The Offeror must get from any immediate and/or highest-level owner(s) their respective CAGE code(s) to provide the code(s) as part of the registration (FAR 52.204–7(b)(3)(i)).

(iv) If the Offeror is located outside of the United States or its outlying areas, and does not already have a CAGE code assigned, the Offeror may obtain a CAGE code as indicated in the following table.

If the Offeror is . . .	Then . . .
Located in a country that is a member of the North Atlantic Treaty Organization (NATO) or a sponsored nation.	Contact the appropriate National Codification Bureau (*https://www.nato.int/structur/ac/135/about/contacts*).

If the Offeror is . . .	Then . . .
Located in a country that is not a member of NATO or a sponsored nation.	Contact the NATO Support and Procurement Agency (NSPA) (*https://eportal.nspa.nato.int/AC135Public/scage/CageList.aspx*).

(c) *Representations and certifications.*

(1) The following FAR solicitation provisions contain entity-level representations and certifications that the Offeror must submit as part of their Federal Government contracts registration in SAM:

Provision	Title	Date
52.204–5	Women-Owned Business (Other Than Small Business)	DATE.
52.209–2	Prohibition on Contracting with Inverted Domestic Corporations—Representation	DATE.
52.209–5	Certification Regarding Responsibility Matters	DATE.
52.209–11	Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.	DATE.
52.219–1	Small Business Program Representations	DATE.
52.219–1 Alt I	Small Business Program Representations, with its Alternate I	DATE.
52.219–1 Alt II	Small Business Program Representations, with its Alternate II	DATE.
52.226–2	Historically Black College or University and Minority Institution Representation	DATE.

(2) By submitting its offer, the Offeror verifies that, as of the date of its offer, its representations and certifications posted electronically in SAM for the provisions listed in paragraph (c)(1) of this provision are current, accurate, and complete. The Offeror's representations and certifications in SAM are hereby incorporated by reference into its offer.

(d) *Other information.* The Offeror must provide more information on its business operations and type that is necessary to be considered for award of certain contracts and financial information necessary to receive payment under contracts.

(End of provision)

Alternate I (DATE). As prescribed in 4.208(b)(1), replace the first sentence of the introductory paragraph of the basic provision with the following sentences:

The Offeror must have an active Federal Government contracts registration in the System for Award Management (SAM) as soon as possible. If registration is not possible when submitting an offer or quotation, the awardee must be registered in SAM according to the requirements of the Alternate I of clause at FAR 52.204–13, System for Award Management-Maintenance.

52.204–8 [Removed and Reserved]

■ 13. Remove and reserve section 52.204–8.

■ 14. Revise sections 52.204–9 and 52.204–10 to read as follows:

52.204–9 Personal Identity Verification of Contractor Personnel.

As prescribed in 4.208(d), insert the following clause:

Personal Identity Verification of Contractor Personnel (DATE)

(a) *Policy.* The Contractor must comply with agency personal identity verification procedures identified in the contract that implement Homeland Security Presidential Directive-12 (HSPD–12), Office of Management and Budget guidance M–05–24, and Federal Information Processing Standards Publication (FIPS PUB) Number 201.

(b) *Returning identification to the Government.* The Contractor must account for all forms of Government-provided identification issued to the Contractor employees in connection with performance under this contract. The Contractor must return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by the Government:

(1) When no longer needed for contract performance.

(2) Upon completion of the Contractor employee's employment.

(3) Upon contract completion or termination.

(c) *Remedy for noncompliance.* The Contracting Officer may delay final payment under a contract if the Contractor fails to comply with these requirements.

(d) *Subcontracts.* The Contractor must insert the substance of this clause, including this paragraph (d), in subcontracts, including those for commercial products (other than commercially available off-the-shelf items) or commercial services, when the subcontractor's employees are required to have routine physical access to a Federally-controlled facility and/or routine access to a Federal information system. The prime Contractor must return its subcontractors' identifications to the issuing agency in accordance to the terms in paragraph (b) of this clause, unless otherwise approved in writing by the Contracting Officer.

(End of clause)

52.204–10 Reporting Executive Compensation and First-Tier Subcontract Awards.

As prescribed in 4.208(e), insert the following clause:

Reporting Executive Compensation and First-Tier Subcontract Awards (DATE)

(a) *Definitions.* As used in this clause:

Executive means officers, managing partners, or any other employees in management positions.

First-tier subcontract means a subcontract awarded directly by the Contractor to acquire supplies or services (including construction), other than those for commercial products or commercial services, for performing a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a contractor's general and administrative expenses or indirect costs.

Month of award means the month in which the Contracting Officer signs a contract or the month in which the Contractor signs a first-tier subcontract.

Total compensation means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the information described at 17 CFR 229.402(c)(2).

(b) *Requirement.* Section 2(d)(2) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282), as amended by section 6202 of the

Government Funding Transparency Act of 2008 (Pub. L. 110–252), requires the Contractor to report information on subcontract awards. The law requires all reported information be made public; therefore, the Contractor is responsible for notifying its subcontractors that the required information will be made public. Nothing in this clause requires disclosing classified information.

(c) *Reporting.* Unless otherwise directed by the Contracting Officer, or as provided in paragraph (f) of this clause, the Contractor must report the following in the System for Award Management at *https://www.sam.gov* as follows:

(1) *Executive compensation of the prime contractor.* The Contractor must report the names and total compensation of each of the five most highly compensated executives for its preceding completed fiscal year, if—

(i) In the Contractor's preceding fiscal year, the Contractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts); loans, grants (and subgrants); cooperative agreements; and other forms of Federal financial assistance; and

(B) $25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts); loans, grants (and subgrants); cooperative agreements; and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at *http://www.sec.gov/answers/execomp.htm*.).

(2) *First-tier subcontract information.* The Contractor must report the following information by the end of the month following the month of award of each first-tier subcontract award:

(i) Unique entity identifier for the subcontractor receiving the award and for the subcontractor's ultimate parent company, if the subcontractor has a parent company.

(ii) Name of the subcontractor.

(iii) Amount of the subcontract award.

(iv) Date of the subcontract award.

(v) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.

(vi) The subcontract number assigned by the Prime Contractor.

(vii) Subcontractor's physical address.

(viii) Subcontractor's primary performance location.

(ix) The prime contract number, and order number if applicable.

(x) Awarding agency name and code.

(xi) Funding agency name and code.

(xii) Government contracting office code.

(xiii) The applicable North American Industry Classification System code.

(3) *Executive compensation of the first-tier subcontractor.* The Contractor must report by the end of the month following the month of award of a first-tier subcontract award and annually thereafter (calculated from the prime contract award date) the names and total compensation of each of the five most highly compensated executives for that subcontractor in the subcontractor's preceding completed fiscal year, if—

(i) In the subcontractor's preceding fiscal year, the subcontractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts); loans, grants (and subgrants); cooperative agreements; and other forms of Federal financial assistance; and

(B) $25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts); loans, grants (and subgrants); cooperative agreements; and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986 (see *http://www.sec.gov/answers/execomp.htm*).

(d) *Restriction.* The Contractor must not split or break down subcontracts to a value below the threshold at the Federal Acquisition Regulation 4.208(e), on the date of subcontract award, to avoid the reporting requirements in paragraph (c) of this clause.

(e) *Duration.* Continued reporting on first-tier subcontracts is not required unless one of the reported data elements changes during the performance of the subcontract. The Contractor is not required to make further reports after a first-tier subcontract expires.

(f) *Exceptions.*

(1) If the Contractor in the previous tax year had gross income from all sources under $300,000, the Contractor is exempt from the requirement to report subcontractor awards.

(2) If a subcontractor in the previous tax year had gross income from all sources under $300,000, the Contractor does not need to report awards for that subcontractor.

(g) *Prepopulated data.* The SAM Subaward Reporting will prepopulate with some information from the SAM Contract Awards Management. If the SAM Contract Awards Management information is incorrect, the Contractor should notify the Contracting Officer. If the SAM information is incorrect, the Contractor is responsible for correcting this information.

(End of clause)

52.204–12 [Removed and Reserved]

■ 15. Remove and reserve section 52.204–12.

■ 16. Revise sections 52.204–13 through 52.204–15 to read as follows:

52.204–13 System for Award Management—Maintenance.

As prescribed in 4.208(b)(2), use the following clause:

System for Award Management Maintenance (DATE)

(a) *Definitions.* As used in this clause—

Commercial and Government Entity code means—

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity by unique location (referred to as ''CAGE code''); or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency to entities located outside the United States and its outlying areas that the DLA CAGE Branch records and maintains in the CAGE master file (referred to as ''NCAGE code'').

Unique Entity Identifier (UEI) means an identifier used to identify a specific commercial, nonprofit, or Government entity.

(b) *Active registration.*

(1) The Contractor must maintain an active Federal Government contracts registration in the System for Award Management (SAM) at *https://www.sam.gov* during contract performance and through final payment under this contract. To maintain an active registration in SAM, the Contractor must review at least annually its registration in SAM and validate that the information is current, accurate, and complete.

(2) The Contractor is responsible for the currency, accuracy, and completeness of the information

provided within SAM, and for any liability resulting from the Government's reliance on inaccurate or incomplete information. Updating SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(c) *Novation and change-of-name agreements.*

(1) If the Contractor has legally changed its business name or ''doing business as'' name (whichever is shown on the contract), or has transferred the assets used to perform the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in part 42 of the Federal Acquisition Regulation (FAR), the Contractor must provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to —

(i) Change the legal business name in SAM;

(ii) Comply with the requirements of FAR part 42; and

(iii) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with its written notification sufficient documentation to support the legally changed name.

(2) If the Contractor fails to comply with the requirements of paragraph (c)(1) of this clause, or fails to perform the agreement at paragraph (c)(1)(iii) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the ''Suspension of Payment'' paragraph of the electronic funds transfer (EFT) clause of this contract.

(d) *Assignees.*

(1) The Contractor must not change the legal business name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see FAR part 32). Assignees must be separately registered in SAM.

(2) Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be incorrect information within the meaning of the ''Suspension of Payment'' paragraph of the EFT clause of this contract.

(e) *Unique entity identifier (UEI).* The Contractor must ensure that its UEI is maintained throughout the life of the contract.

(f) *Commercial and Government Entity (CAGE) code.* The Contractor must ensure that the CAGE code is maintained throughout the life of the contract. To update a CAGE code, the Contractor must initiate the change by updating its SAM registration.

(g) *Communicating changes.* The Contractor must communicate any change to its UEI or CAGE code to the Contracting Officer within 30 days after the change, so a modification can be issued to update the UEI or CAGE code on this contract. A change in the UEI does not necessarily require a novation.

(End of clause)

Alternate I (DATE). As prescribed in 4.208(b)(2), replace paragraph (b) of the basic clause with the following paragraph (b):

(b) *Active registration.*

(1) If the Contractor was unable to register for Federal Government contracts in the System for Award Management (SAM) at *https://www.sam.gov* before award, the Contractor must register in SAM within 30 days after contract award or at least three days before submitting the first invoice, whichever occurs first.

(2) The Contractor must maintain an active Federal Government contracts registration in SAM during contract performance and through final payment under this contract. To maintain an active registration in SAM, the Contractor must review at least annually its registration in SAM and validate that the information is current, accurate, and complete.

(3) The Contractor is responsible for the currency, accuracy, and completeness of the information provided within SAM, and for any liability resulting from the Government's reliance on inaccurate or incomplete information. Updating SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

52.204–14 Service Contract Reporting Requirements.

As prescribed in 4.208(f)(2), insert the following clause:

Service Contract Reporting Requirements (DATE)

(a) *Definition.* As used in this clause—

First-tier subcontract means a subcontract awarded directly by the Contractor to acquire supplies or services (including construction), other than those for commercial products or commercial services, for performing a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a contractor's general and administrative expenses or indirect costs.

(b) *Requirement.* The Contractor must report, according to paragraphs (c) and (d) of this clause, annually by October 31, for services performed under this contract during the preceding Government fiscal year (October 1–September 30).

(c) *Report elements.* The Contractor must report the following information:

(1) Contract number and, as applicable, order number.

(2) The total dollar amount invoiced for services performed during the previous Government fiscal year under the contract.

(3) The number of Contractor direct labor hours expended on the services performed during the previous Government fiscal year.

(4) Data reported by subcontractors under paragraph (f) of this clause.

(d) *Remedies.* The Contractor must submit the information required in paragraph (c) of this clause in the System for Award Management (SAM) at *https://www.sam.gov* (see SAM User Guide). If the Contractor fails to submit the report in a timely manner, the Contracting Officer will exercise appropriate contractual remedies. In addition, the Contracting Officer will make the Contractor's failure to comply with the reporting requirements a part of the Contractor's performance information under the Federal Acquisition Regulation (FAR) part 42.

(e) *Review.* Agencies will review Contractor-reported information for reasonableness and consistency with available contract information. If the agency believes that revisions to the Contractor's reported information are warranted, the agency will notify the Contractor. The Contractor must revise the report, or put its reason in writing for the agency.

(f) *Subcontracts.*

(1) The Contractor must require each first-tier subcontractor with first-tier subcontract(s) each valued at or more than the thresholds at FAR 4.304(b), to provide the following detailed information to the Contractor in sufficient time to submit the report:

(i) Subcontract number (including subcontractor name and unique entity identifier); and

(ii) The number of first-tier subcontractor direct-labor hours expended on the services performed during the previous Government fiscal year.

(2) The Contractor must tell the subcontractor that the information will be made available to the public as required by section 743 of Division C of the Consolidated Appropriations Act, 2010.

(End of clause)

52.204–15 Service Contract Reporting Requirements for Indefinite-Delivery Contracts.

As prescribed in 4.208(f)(3), insert the following clause:

Service Contract Reporting Requirements for Indefinite-Delivery Contracts (DATE)

(a) *Definition.* As used in this clause—

First-tier subcontract means a subcontract awarded directly by the Contractor to acquire supplies or services (including construction), other than those for commercial products or commercial services, for performing a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a contractor's general and administrative expenses or indirect costs.

(b) *Requirement.* The Contractor must report, according to paragraphs (c) and (d) of this clause, annually by October 31, for services performed during the preceding Government fiscal year (October 1–September 30) under this contract for orders that exceed the thresholds established in FAR 4.304(b).

(c) *Report elements.* The Contractor must report the following information:

(1) Contract number and order number.

(2) The total dollar amount invoiced for services performed during the previous Government fiscal year under the order.

(3) The number of Contractor direct labor hours expended on the services performed during the previous Government fiscal year.

(4) Data reported by subcontractors under paragraph (f) of this clause.

(d) *Remedies.* The Contractor must submit the information required in paragraph (c) of this clause in the System for Award Management (SAM) at *https://www.sam.gov* (see SAM User Guide). If the Contractor fails to submit the report in a timely manner, the Contracting Officer will exercise appropriate contractual remedies. In addition, the Contracting Officer will make the Contractor's failure to comply with the reporting requirements a part of the Contractor's performance information under the Federal Acquisition Regulation (FAR) part 42.

(e) *Review.* Agencies will review Contractor-reported information for reasonableness and consistency with available contract information. If the agency believes that revisions to the Contractor's reported information are warranted, the agency will notify the Contractor. The Contractor must revise the report, or put its reason in writing for the agency.

(f) *Subcontracts.*

(1) The Contractor must require each first-tier subcontractor with first-tier subcontract(s) each valued at or more than the thresholds at FAR 4.304(b), to provide the following detailed information to the Contractor in sufficient time to submit the report:

(i) Subcontract number (including subcontractor name and unique entity identifier); and

(ii) The number of first-tier subcontractor direct-labor hours expended on the services performed during the previous Government fiscal year.

(2) The Contractor must tell the subcontractor that the information will be made available to the public as required by section 743 of Division C of the Consolidated Appropriations Act, 2010.

(End of clause)

52.204–16 through 52.204–18 [Removed and Reserved]

■ 17. Remove and reserve sections 52.204–16 through 52.204–18.

■ 18. Revise section 52.204–19 to read as follows:

52.204–19 Incorporation by Reference of Representations and Certifications.

As prescribed in 4.208(g), insert the following clause:

Incorporation by Reference of Representations and Certifications (DATE)

The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

(End of clause)

52.204–20 through 52.204–30 [Removed and Reserved]

■ 19. Remove and reserve sections 52.204–20 through 52.204–30.

■ 20. Add sections 52.204–XX and 52.204–YY to read as follows:

52.204–XX Offeror Identification.

As prescribed in 4.208(c)(1), insert the following provision:

Offeror Identification (DATE)

If the Offeror will not have an active Federal Government contracts registration in the System for Award Management (*https://www.sam.gov*) when submitting its offer, it must complete paragraphs (c) and (d) of this provision and include its responses with its offer.

(a) *Definitions.* As used in this provision—

Commercial and Government Entity (CAGE) code has the meaning provided in the clause at the Federal Acquisition Regulation (FAR) 52.204–YY, Contractor Identification, of this solicitation.

Common parent means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

Electronic Funds Transfer (EFT) indicator means a bank account identifier to establish additional System for Award Management records for identifying alternative EFT accounts (see FAR part 32) for the same entity.

Highest-level owner means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest-level owner.

Immediate owner means an entity, other than the offeror, that has direct control of the offeror. Indicators of control include, but are not limited to, one or more of the following: ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees. There may be more than one immediate owner (*e.g.,* joint ventures).

Predecessor means an entity whose assets were acquired by the offeror or another entity (most often through merger or acquisition) and whose affairs are now carried out by the offeror or the other entity under a new name.

Taxpayer Identification Number means the number required by the Internal Revenue Service (IRS) to be used by the offeror to report income tax and other returns. It may be either a Social Security Number or an Employer Identification Number.

Unique entity identifier (UEI) has the meaning provided in the clause at FAR 52.204–YY, Contractor Identification, of this solicitation.

(b) *Unique entity identifier (UEI).*

(1) The Offeror must enter, in the block with its name and address on the cover page of its offer, the annotation ''Unique Entity Identifier'' followed by

the UEI that identifies the Offeror's name and address exactly as stated in the offer. The Offeror must also enter its EFT indicator, if applicable.

(2) If the Offeror does not have a UEI, it must go to *https://www.sam.gov* to obtain one. The Government will independently validate the existence and uniqueness of the Offeror before assigning a UEI.

(c) *Taxpayer identification.* The Offeror must provide with its offer the following information that is necessary to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d); reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M; and the implementing IRS regulations:

(1) *Taxpayer identification number (TIN).*

☐ TIN: _____;
☐ TIN has been applied for; or
☐ TIN is not required because:
☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;
☐ Offeror is an agency or instrumentality of a foreign government; or
☐ Offeror is an agency or instrumentality of the Federal Government.

(2) *Type of organization.*

☐ Sole proprietorship;
☐ Partnership;
☐ Corporate entity (not tax-exempt);
☐ Corporate entity (tax-exempt);
☐ Government entity (Federal, State, or local);
☐ Foreign government;
☐ International organization per 26 CFR 1.6049–4; or
☐ Other.

(3) *Common parent.*

☐ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision; or
☐ Name and TIN of common parent:
Name: _____
TIN: _____

(4) The TIN provided in paragraph (c)(1) of this provision may be matched with IRS records to verify the accuracy of the Offeror's TIN. The Government may use the TIN to collect and report on any delinquent amounts arising out of the Offeror's relationship with the Government (31 U.S.C. 7701(c)(3)).

(d) *Commercial and Government Entity (CAGE) code.*

(1) The Offeror must provide its CAGE code with its offer with its name and location address or otherwise include it prominently in its offer. The CAGE code must be for that name and location address. Insert the word ''CAGE'' before the code. The Offeror may obtain a CAGE code as indicated in the following table.

If the Offeror is . . .	Then . . .
Located in the United States or its outlying areas	Submit a request to the DLA CAGE Branch via *https://cage.dla.mil*.
Located outside the United States and its outlying areas and its country is a member of the North Atlantic Treaty Organization (NATO) or a sponsored nation.	Contact the appropriate National Codification Bureau (*https://www.nato.int/structur/ac/135/about/contacts*).
Located outside the United States and its outlying areas and its country is not a member of NATO or a sponsored nation.	Contact the NATO Support and Procurement Agency (NSPA) (*https://eportal.nspa.nato.int/AC135Public/scage/CageList.aspx*).

(2) The Offeror must provide the CAGE code and legal business name (Do not use a ''doing business as'' name) for—

(i) Its immediate owner(s), if any;
(ii) Its highest-level owner, if any; and
(iii) Any predecessor(s), or predecessor of an Offeror's predecessor, that held a Federal contract or grant within the last three years.

Owner type	CAGE code	Legal business name
Immediate owner.		
Highest-level owner.		
Predecessor*.		

*Predecessor CAGE code may be marked ''Unknown.''

(3) If the Offeror has more than one immediate owner (such as a joint venture), give the information for each owner (or joint venture participant). If the Offeror has more than one predecessor, provide information for each predecessor in reverse chronological order.

(End of provision)

52.204–YY Contractor Identification.

As prescribed in 4.208(c)(2), insert the following clause:

Contractor Identification (DATE)

(a) *Definitions.* As used in this clause—

Commercial and Government Entity code means—

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity by unique location (referred to as ''CAGE code''); or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA CAGE Branch records and maintains in the CAGE master file (referred to as ''NCAGE code'').

Unique entity identifier means an identifier used to identify a specific commercial, nonprofit, or Government entity.

(b) *Unique entity identifier (UEI).* The Contractor must ensure that its UEI is maintained throughout the life of the contract.

(c) *Commercial and Government Entity (*CAGE) *code.* The Contractor must ensure that the CAGE code is maintained throughout the life of the contract. The Contractor must request changes to a CAGE code as indicated in the following table.

If the Contractor is . . .	Then . . .
Registered in the System for Award Management (SAM)	Initiate the change by updating its SAM registration.
Located in the United States or its outlying areas and is not registered in SAM.	Submit a change request to the DLA CAGE Branch via *https://cage.dla.mil.*
Located outside the United States and its outlying areas and is not registered in SAM.	Request a change by contacting the appropriate National Codification Bureau (*https://www.nato.int/structur/ac/135/about/contacts*) or NSPA (*https://eportal.nspa.nato.int/AC135Public/scage/CageList.aspx*).

(d) *Communicating changes.* The Contractor must communicate any change to its UEI or CAGE code to the Contracting Officer within 30 days after the change, so a modification can be issued to update the UEI or CAGE code on this contract. A change in the UEI does not necessarily require a novation.

(End of clause)

21. Revise sections 52.233–1 through 52.233–4 to read as follows:

52.233–1 Disputes.

As prescribed in 33.206(a), insert the following clause:

Disputes (DATE)

(a) As used in this clause—

Claim means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding $100,000 is not a claim under 41 U.S.C. chapter 71 until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under 41 U.S.C. chapter 71. The submission may be converted to a claim under 41 U.S.C. chapter 71, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

Defective certification means a certification that alters or otherwise deviates from the language in paragraph (d)(2)(iii) of this clause or which is not executed by a person authorized to bind the contractor with respect to the claim. Failure to certify must not be deemed to be a defective certification.

(b) This contract is subject to 41 U.S.C. chapter 71, Contract Disputes.

(c) Except as provided in 41 U.S.C. chapter 71, all disputes arising under or relating to this contract must be resolved under this clause.

(d)(1) A claim by the Contractor must be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor must be subject to a written decision by the Contracting Officer.

(2)(i) The Contractor must provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding $100,000.

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification must state as follows: ''I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am authorized to certify the claim on behalf of the Contractor.''

(3) The certification may be executed by any person authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of $100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over $100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision will be final unless the Contractor appeals or files a suit as provided in 41 U.S.C. chapter 71.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor must inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.

(h)(1) The Government must pay interest on the amount found due and unpaid from the date that—

(i) The Contracting Officer receives the claim (certified, if required); or

(ii) Payment otherwise would be due, if that date is later, until the date of payment.

(2) For claims having defective certifications, interest must be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims must be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which applies to the period during which the Contracting Officer receives the claim and then at the rate that applies for each 6-month period as fixed by the Treasury Secretary while the claim is pending.

(i) The Contractor must proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

(End of clause)

52.233–2 Service of Protest.

As prescribed in 33.107(a), insert the following provision:

Service of Protest (DATE)

(a) Protests, (as defined in FAR 33.102), that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), must be served on the Contracting Officer identified in the solicitation by obtaining written and dated acknowledgment of receipt from them.

(b) The copy of any protest must be received in the office designated above within one day of filing a protest with the GAO.

(End of provision)

52.233–3 Protest After Award.

As prescribed in 33.107(b), insert the following clause:

Protest After Award (DATE)

(a) Upon receipt of a stop-work order, the Contractor must immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the order during the period of work stoppage. After receiving the final decision in the protest, the Contracting Officer must either—

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or

after a final decision in the protest, the Contractor must resume work. The Contracting Officer must make an equitable adjustment in the delivery schedule or contract price, or both, and the contract must be modified, in writing, accordingly, if—

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; *provided,* that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon a proposal submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer must allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer must allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

(End of clause)

Alternate I (DATE). As prescribed in 33.107(b), substitute in paragraph (a)(2) the words ''the Termination clause of this contract'' for the words ''the Default, or the Termination for Convenience of the Government clause of this contract.'' In paragraph (b) substitute the words ''an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected'' for the words ''an equitable adjustment in the delivery schedule or contract price, or both.''

52.233–4 Applicable Law for Breach of Contract Claim.

As prescribed in 33.206(b), insert the following clause:

Applicable Law for Breach of Contract Claim (DATE)

United States law will apply to resolve any claim of breach of this contract.

(End of clause)

52.239–1 and 52.240–1 [Removed and Reserved]

■ 22. Remove and reserve sections 52.239–1 and 52.240–1.

■ 23. Add sections 52.240–2, 52.240–3, 52.240–4, 52.240–5, 52.240–6, and 52.240–7 to read as follows:

52.240–2 Security Prohibitions and Exclusions—Representations and Certifications

As prescribed in 40.205(a), insert the following provision:

Security Prohibitions and Exclusions—Representations and Certifications (DATE)

(a) *Definitions.* As used in this provision—

Backhaul, covered article, covered procurement, covered procurement action, covered telecommunications equipment or services, critical technology, FASCSA order, Intelligence community, interconnection arrangements, national security system, roaming, sensitive compartmented information, sensitive compartmented information system, source, and substantial or essential component have the meanings provided in the clause 52.240–3, Security Prohibitions and Exclusions.

Business operations means engaging in commerce in any form, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

Marginalized populations of Sudan means—

(1) Adversely affected groups in regions authorized to receive assistance under section 8(c) of the Darfur Peace and Accountability Act (Pub. L. 109–344) (50 U.S.C. 1701 note); and

(2) Marginalized areas in Northern Sudan described in section 4(9) of such Act.

Restricted business operations means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110–174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate—

(1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

(2) Are conducted under specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(3) Consist of providing goods or services to marginalized populations of Sudan;

(4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(5) Consist of providing goods or services that are used only to promote health or education; or

(6) Have been voluntarily suspended.

Sensitive technology—

(1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically—

(i) To restrict the free flow of unbiased information in Iran; or

(ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

(2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

(b) *Procedures.*

(1) *Covered telecommunications and video surveillance.* The Offeror must review the list of excluded parties in SAM at *https://www.sam.gov* for entities excluded from receiving federal awards for ''covered telecommunications equipment or services.''

(2) *FASCSA Orders.*

(i) The Offeror must search in SAM for the phrase ''FASCSA order'' for any covered article, or any products or services produced or provided by a source, if there is an applicable FASCSA order described in paragraph (e) of FAR 52.240–3, Security Prohibitions and Exclusions.

(ii) The Offeror must review the solicitation for any FASCSA orders that are not in SAM but are effective and apply to the solicitation and resultant contract (see FAR 40.204–1(c)(2)).

(iii) FASCSA orders issued after the date of solicitation do not apply unless added by an amendment to the solicitation.

(3) *Covered procurement actions.*

(i) The Offeror must search SAM for the phrase ''covered procurement action'' for any source or specified product or service that is subject to a covered procurement action described in paragraph (e) to determine if any products or services are prohibited.

(ii) The Offeror must review the solicitation for any source or specified product or service that is subject to any covered procurement action that is not in SAM but are effective and apply to the solicitation and resultant contract (see FAR 40.204–2).

(iii) A source or specified product or service that is subject to a covered procurement actions issued after the date of solicitation does not apply unless added by an amendment to the solicitation.

(c) *Covered telecommunications equipment or services representations.* By submission of its offer, the Offeror represents that, after conducting a reasonable inquiry (that looks at any information in the Offeror's possession that is accessible but does not need to include an internal or third-party audit)—

(1) It will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract, or other contractual instrument resulting from this solicitation, except as waived by the solicitation, or as disclosed in paragraph (h); and

(2) It does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services, except as waived by the solicitation, or as disclosed in paragraph (h).

(d) *FASCSA representation.* By submission of this offer, the Offeror represents that it has conducted a reasonable inquiry, and that the offeror does not propose to provide or use in response to this solicitation any covered article, or any products or services produced or provided by a source, if the covered article or the source is prohibited by an applicable FASCSA order in effect on the date the solicitation was issued, unless excepted by the solicitation, or as disclosed in paragraph (h). A reasonable inquiry will look at any information in the offeror's possession that is accessible but does not need to include an internal or third-party audit.

(e) *Covered procurement action representation.* By submission of this offer, the Offeror represents that it has conducted a reasonable inquiry, and that the Offeror does not propose to provide or use in response to this solicitation any products or services that are prohibited by an applicable covered procurement action in effect on the date the solicitation was issued, except as waived by the solicitation, or as disclosed in paragraph (h). A reasonable inquiry will look at any information in the Offeror's possession that is accessible but does not need to include an internal or third-party audit.

(f) *Sudan certification.* By submission of its offer, the Offeror certifies, after conducting a reasonable inquiry (that looks at any information in the offeror's possession that is accessible but does not need to include an internal or third-party audit), that the Offeror does not conduct any restricted business operations in Sudan.

(g) *Iran representation and certifications.*

(1) Except as provided in paragraph (g)(2) of this provision or if a waiver has been granted in accordance with FAR 40.203–3, the offeror, after conducting a reasonable inquiry (that looks at any information in the Offeror's possession that is accessible but does not need to include an internal or third-party audit), by submission of its offer —

(i) Represents, to the best of its knowledge and belief, that the Offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(ii) Certifies that the Offeror, or any person (as defined at section 15 of the Iran Sanctions Act of 1996, Pub. L. 104–172, 50 U.S.C. 1701 note) owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Act. These sanctioned activities are in the areas of development of the petroleum resources of Iran, production of refined petroleum products in Iran, sale and provision of refined petroleum products to Iran, and contributing to Iran's ability to acquire or develop certain weapons or technologies; and

(iii) Certifies that the Offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds $15,000 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (see OFAC's Specially Designated Nationals and Blocked Persons List at *https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx*)

(2) Exception for trade agreements. The representation and certification requirements of paragraph (g)(1) of this provision do not apply if—

(i) This solicitation includes a trade agreements notice or certification (*e.g.,* 52.225–6, Trade Agreements Certificate); and

(ii) The Offeror has certified that all the offered products to be supplied are designated country end products or designated country construction material.

(iii) The Offeror must email questions concerning sensitive technology to the Department of State at *CISADA106@state.gov.*

(h) *Disclosure.*

(1) If the Offeror is not able to represent compliance with the prohibitions in paragraphs (c), (d), or (e) then the Offeror must disclose to the contracting officer within 72 hours the following information for each product or service not compliant:

(i) Contract number and order number, if applicable.

(ii) Identification of whether this disclosure relates to paragraph (c) on covered telecommunication equipment or services, to paragraph (d) on FASCSA orders, or paragraph (e) on covered procurement actions.

(iii) A description of the products or services that the Contractor identifies or has reason to suspect are prohibited (include brand; model number, such as the original equipment manufacturer (OEM) number, manufacturer part number, or wholesaler number; and item description, as applicable).

(iv) The entity that produced the product or service (include entity name, UEI, CAGE code, facilities responsible for design, fabrication, assembly, packaging, and test of the product, and whether the entity was the OEM or a distributor (provide manufacturer codes and distributor codes used for the product)).

(v) Description of the functionality of the product or service and how that functionality impacts the risk to the product or service.

(vi) An explanation of any factors relevant to determining if the product or service should be permitted by an applicable exception, exemption, or waiver (if the offeror would like the Government to consider a waiver or exception).

(vii) Whether alternative products or services are available that would be compliant with the prohibition.

(viii) If the product or service is related to item maintenance, include the following information on the item being maintained:

(A) Brand.

(B) Model number, OEM number, manufacturer part number, or wholesaler number.

(C) Item description, as applicable.

(ix) Any readily available information about mitigation actions undertaken or recommended.

(2) If the disclosure provided does not contain any of the information required by paragraph (h)(1), and the offeror later discovers new information that is required by paragraph (h)(1), then the Offeror must submit a subsequent disclosure within 72 hours of discovering the new information.

(i) *Executive agency review of disclosures.* The Contracting Officer will review disclosures provided in paragraph (h) to determine if any applicable waiver or exception may be sought. The Contracting Officer may choose not to pursue a waiver and may instead make an award to an Offeror that does not require a waiver.

(End of provision)

52.240–3 Security Prohibitions and Exclusions.

As prescribed in 40.205(b), insert the following clause:

Security Prohibitions and Exclusions

(DATE)

(a) *Definitions.* As used in this clause—

American Security Drone Act-covered foreign entity means an entity included on a list that the Federal Acquisition Security Council (FASC) develops and maintains and publishes in SAM at *https://www.sam.gov* (section 1822 of Pub. L. 118–31, 41 U.S.C. 3901 note prec.).

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (*e.g.,* connecting cell phones/towers to the core telephone network). Backhaul can be wireless (*e.g.,* microwave) or wired (*e.g.,* fiber optic, coaxial cable, Ethernet).

Covered application means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.

Covered article, as defined in 41 U.S.C. 4713(k), means—

(1) Information technology, as defined in 40 U.S.C. 11101, including cloud computing services of all types;

(2) Telecommunications equipment or telecommunications service, as those terms are defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

(3) The processing of information on a Federal or non-Federal information system, subject to the requirements of the Controlled Unclassified Information program (see 32 CFR part 2002); or

(4) Hardware, systems, devices, software, or services that include embedded or incidental information technology.

Covered foreign country means The People's Republic of China.

Covered procurement, as defined at 41 U.S.C. 4713(k), means—

(1) A source selection for a covered article involving either a performance specification, as provided in 41 U.S.C. 3306(a)(3)(B), or an evaluation factor, as provided in 41 U.S.C. 3306(b)(1)(A), relating to a supply chain risk, or where supply chain risk considerations are included in the agency's determination of whether a source is a responsible source as defined in 41 U.S.C. 113 (see part 9);

(2) The consideration of proposals for, and issuance of a task or delivery order for, a covered article, as provided in 41 U.S.C. 4106(d)(3), where the task or delivery order contract includes a contract clause establishing a requirement relating to a supply chain risk;

(3) Any contract action involving a contract for a covered article where the contract includes a clause establishing requirements relating to a supply chain risk; or

(4) Any other procurement in a category of procurements determined appropriate by the Federal Acquisition Regulatory Council, with the advice of the Federal Acquisition Security Council.

Covered procurement action, as defined at 41 U.S.C. 4713(k), means any of the following actions, if the action takes place in the course of conducting a covered procurement:

(1) The exclusion of a source that fails to meet qualification requirements established under 41 U.S.C. 3311 (see part 9) for the purpose of reducing supply chain risk in the acquisition or use of covered articles.

(2) The exclusion of a source that fails to achieve an acceptable rating with regard to an evaluation factor providing for the consideration of supply chain risk in the evaluation of proposals for the award of a contract or the issuance of a task or delivery order.

(3) The determination that a source is not a responsible source as defined in 41 U.S.C. 113 (see part 9) based on considerations of supply chain risk.

(4) The decision to withhold consent for a contractor to subcontract with a particular source or to direct a contractor to exclude a particular source from consideration for a subcontract under the contract.

Covered telecommunications equipment or services means—

(1) Telecommunications equipment produced (*i.e.* manufactured, designed, developed, or licensed intellectual property) by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance equipment and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications services or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications equipment, telecommunications services, video surveillance equipment, or video surveillance services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence (DNI) or the Director of the Federal Bureau of Investigation (FBI), reasonably believes to be an entity owned or controlled (see 31 CFR 800.208) by, or otherwise connected to, the government of a covered foreign country.

Critical technology means a technology in whose absence a system cannot adequately operate or function.

FASC-prohibited unmanned aircraft system means an unmanned aircraft system manufactured or assembled by an American Security Drone Act—covered foreign entity.

FASCSA order means any of the following orders issued under the Federal Acquisition Supply Chain Security Act (FASCSA) requiring removing covered articles from executive agency information systems or excluding one or more named sources or named covered articles from executive agency procurement actions, as described in 41 CFR 201–1.303(d) and (e):

(1) The Secretary of Homeland Security may issue FASCSA orders that apply to civilian agencies, to the extent not covered by paragraph (2) or (3) of this definition. This type of FASCSA order may be referred to as a DHS FASCSA order.

(2) The Secretary of Defense may issue FASCSA orders that apply to DoD

and national security systems other than sensitive compartmented information systems. This type of FASCSA order may be referred to as a DoD FASCSA order.

(3) DNI may issue FASCSA orders that apply to the intelligence community and sensitive compartmented information systems, to the extent not covered by paragraph (2) of this definition. This type of FASCSA order may be referred to as a DNI FASCSA order.

Information technology, as defined in 40 U.S.C. 11101(6)—

(1) Means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use—

(i) Of that equipment; or

(ii) Of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(2) Includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but

(3) Does not include any equipment acquired by a Federal contractor incidental to a Federal contract.

Intelligence community, as defined by 50 U.S.C. 3003(4), means the following—

(1) The Office of the Director of National Intelligence;

(2) The Central Intelligence Agency;

(3) The National Security Agency;

(4) The Defense Intelligence Agency;

(5) The National Geospatial-Intelligence Agency;

(6) The National Reconnaissance Office;

(7) Other offices within DoD for the collection of specialized national intelligence through reconnaissance programs;

(8) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Space Force, the Coast Guard, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Department of Energy;

(9) The Bureau of Intelligence and Research of the Department of State;

(10) The Office of Intelligence and Analysis of the Department of the Treasury;

(11) The Office of Intelligence and Analysis of the Department of Homeland Security; or

(12) Such other elements of any department or agency as may be designated by the President, or designated jointly by the Director of National Intelligenceand the head of the department or agency concerned, as an element of the intelligence community.

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (*e.g.,* connecting a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Kaspersky Lab-covered article means any hardware, software, or service that—

(1) Is developed or provided by a Kaspersky Lab-covered entity;

(2) Includes any hardware, software, or service developed or provided in whole or in part by a Kaspersky Lab-covered entity; or

(3) Contains components using any hardware or software developed in whole or in part by a Kaspersky Lab-covered entity.

Kaspersky Lab-covered entity means—

(1) Kaspersky Lab;

(2) Any successor entity to Kaspersky Lab, including any change in name, *e.g.,* ''Kaspersky'';

(3) Any entity that controls, is controlled by, or is under common control with Kaspersky Lab; or

(4) Any entity of which Kaspersky Lab has a majority ownership.

National security system, as defined in 44 U.S.C. 3552, means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency—

(1) The function, operation, or use of which involves intelligence activities; involves cryptologic activities related to national security; involves command and control of military forces; involves equipment that is an integral part of a weapon or weapons system; or is critical to the direct fulfillment of military or intelligence missions, but does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications); or

(2) Is protected at all times by procedures established for information that have been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept classified in the interest of national defense or foreign policy.

Roaming means cellular communications services (*e.g.,* voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak, traffic is too high, or home network is not located in that geographic area.

Sensitive compartmented information means classified information concerning or derived from intelligence sources, methods, or analytical processes, which is required to be handled within formal access control systems established by the Director of National Intelligence.

Sensitive compartmented information system means a national security system authorized to process or store sensitive compartmented information.

Source means a non-Federal supplier, or potential supplier, of products or services, at any tier.

System means a regularly interacting or interdependent group of items or components forming a unified whole.

Subsidiary means an entity in which more than 50 percent of the entity is owned directly by a parent corporation or through another subsidiary of a parent corporation.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service. A component that is used only in connection with an ancillary function of a piece of equipment, system, or service is not substantial or essential.

Telecommunications equipment means equipment used to produce, transmit, emit, or receive, or store signals, signs, writing, images, sounds, or intelligence of any nature, by wire, cable, satellite, fiber optics, laser, radio, or any other electronic, electric, electromagnetic, or acoustically coupled means.

Telecommunications services means services used to produce, transmit, emit, or receive, or store signals, signs, writing, images, sounds, or intelligence of any nature, by wire, cable, satellite, fiber optics, laser, radio, or any other electronic, electric, electromagnetic, or acoustically coupled means.

Unmanned aircraft means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft (49 U.S.C. 44801(11)).

Unmanned aircraft system means an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required

for the operator to operate safely and efficiently in the national airspace system (49 U.S.C. 44801(12)). See 41 CFR 201–1.101 for the list of associated elements identified by the FASC.

Video surveillance equipment means equipment used to identify or monitor activities or information through use of imaging, visual, or audio methods.

Video surveillance services means services used to identify or monitor activities or information through use of imaging, visual, or audio methods.

(b) *Prohibitions on providing or using specific products or services in performance of contract.* Unless a waiver or exception applies, the Contractor is prohibited from providing any products or services to the Government or using in the performance of the contract any of the following:

(1) A covered application on any information technology owned or managed by the Government, or on any information technology used or provided by the Contractor under this contract, including equipment provided by the Contractor's employees (section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117–328));

(2) A Kaspersky Lab-covered article (Section 1634 of Division A of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115–91));

(3) Covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system (paragraphs (a)(1)(A) of section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232)). This does not prohibit contractors from—

(i) Providing a service to the Government that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Providing or using telecommunications equipment that does not have the capability to route or redirect (*i.e.* directs or programs equipment to make a determination of where to send) user data traffic or cannot permit visibility (*i.e.* access to content in a comprehensible form) into any user data or packets that such equipment transmits or otherwise handles.

(c) *Prohibition on unmanned aircraft systems manufactured or assembled by American Security Drone Act—covered foreign entities.*

(1) *Prohibition.* The Contractor is prohibited from—

(i) Delivering any FASC-prohibited unmanned aircraft system, which includes unmanned aircraft (*i.e.,* drones) and associated elements (sections 1823 and 1826 of American Security Drone Act of 2023, within the National Defense Authorization Act for Fiscal Year 2024, Pub. L. 118–31, Div. A, Title XVIII, Subtitle B, 41 U.S.C. 3901 note prec.);

(ii) On or after December 22, 2025, operating a FASC-prohibited unmanned aircraft system in the performance of the contract (section 1824 of Pub. L. 118–31); and

(iii) On or after December 22, 2025, using Federal funds to procure or operate a FASC-prohibited unmanned aircraft system (section 1825 of Pub. L. 118–31).

(2) *Procedures.* The Contractor must search SAM for the FASC-maintained list of American Security Drone Act—covered foreign entities before proposing, or using in performance of the contract, any unmanned aircraft system. Also, the Contractor must ensure any effort or expenditure associated with a FASC-prohibited unmanned aircraft system is consistent with a corresponding exemption, exception, or waiver determination expressly stated in the contract.

(3) *Exemptions, exceptions, and waivers.* The prohibitions in paragraph (c) of this clause do not apply where the agency has determined an exemption, exception, or waiver applies, and the contract indicates that such a determination has been made. See sections 1823 through 1825 and 1832 of Public Law 118–31 for statutory requirements pertaining to exemptions, exceptions, and waivers.

(d) *Prohibition on using or providing specific products or services or conducting certain transactions regardless of connection to contract.*

(1) *Certain telecommunications and video surveillance equipment, systems, or services.*

(i) Unless an applicable waiver has been issued by the Government, the Contractor cannot use any equipment, systems, or services that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system (paragraph (a)(1)(B) of section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232)). For purposes of this specific prohibition only, the following activities are not individually considered use of covered telecommunications equipment or services: commercial sales, maintenance, testing services, warranty services, and employee's use of personal equipment.

(ii) This prohibition applies to using covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. This does not prohibit the contractor from using—

(A) A service that connects to the facilities of a third party, such as backhaul, roaming, or interconnection arrangements; or

(B) Telecommunications equipment that does not have the capability to route or redirect (*i.e.* directs or programs equipment to make a determination of where to send) user data traffic or cannot permit visibility (*i.e.* access to content in a comprehensible form) into any user data or packets that such equipment transmits or otherwise handles.

(2) *Office of Foreign Assets Control restrictions.*

(i) Except as authorized by OFAC in the Department of the Treasury, the Contractor must not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(ii) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its outlying areas.

(A) For lists of entities and individuals subject to economic sanctions, see OFAC's List of Specially Designated Nationals and Blocked Persons at *https://home.treasury.gov/policy-issues/financial-sanctions/specially-designated-nationals-and-blocked-persons-list-sdn-human-readable-lists.*

(B) For more information about these restrictions, as well as updates, see OFAC's regulations at 31 CFR chapter V and at *https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information.*

(C) To conduct electronic screens of potential parties to regulated transactions, see the consolidated screening list at *https://www.trade.gov/consolidated-screening-list,* which consolidates multiple export screening lists of the Departments of Commerce, State, and the Treasury.

(3) *Sudan prohibition.* The Contractor is prohibited from conducting any restricted business operations in Sudan in accordance with the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110–174).

(4) *Iran prohibitions.*

(i) Unless an exception applies according to paragraph (d)(4)(iii) or the Government grants a waiver, the contractor must not engage in certain activities or transactions relating to Iran (section 6(b)(1)(A) of Iran Sanctions Act (50 U.S.C. 1701 note).

(ii) Unless an exception applies according to paragraph (d)(4)(iii) or the Government grants a waiver, contractor must not export certain sensitive technology to Iran, as determined by the President, and has an active exclusion in SAM (22 U.S.C. 8515).

(iii) The prohibition in paragraphs (d)(4)(i) and (d)(4)(ii) do not apply if the acquisition is subject to trade agreements and the offeror certifies that all the offered products are designated country end products or designated country construction material (see part 25).

(iv) Unless an exception applies or the Government grants a waiver, contractors are prohibited from knowingly engaging in any significant transaction (*i.e.,* over $15,000) with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked according to the International Emergency Economic Powers Act (section 6(b)(1)(B) of Iran Sanctions Act (50 U.S.C. 1701 note)).

(e) *Governmentwide exclusion and removal orders.*

(1) Unless the Government has issued an applicable waiver, contractors must not provide or use as part of the performance of the contract any covered article, or any products or services produced or provided by a source, if the covered article or the source is prohibited by an applicable FASCSA order as follows:

(i) For solicitations and contracts awarded by a Department of Defense contracting office, DoD FASCSA orders apply.

(ii) For all other solicitations and contracts, DHS FASCSA orders apply.

(2) The Contractor must search for the phrase ''FASCSA order'' in the System for Award Management (SAM) at *https://www.sam.gov* to locate applicable FASCSA orders.

(3) The Government may identify in the solicitation other FASCSA orders that are not in SAM, which are effective and apply to the solicitation and resulting contract.

(4) A FASCSA order issued after the date of solicitation applies to this contract only if added by an amendment to the solicitation or modification to the contract (see FAR 40.204–1(c)).

(f) *Covered procurement actions.* Unless the Government has issued an applicable waiver, the contractor must not provide or use any products or services in performance of the contract that are prohibited by an applicable covered procurement action that has been identified in the solicitation or posted in SAM at *www.sam.gov* (41 U.S.C. 4713).

(g) *Reasonable inquiry.* The contractor must conduct a reasonable inquiry to determine if there are any prohibited products or services. The inquiry will look at any information in the entity's possession that is accessible but does not need to include an internal or third-party audit.

(h) *Removal of prohibited products and services.* For Federal Supply Schedules, Governmentwide acquisition contracts, multi-agency contracts or any other procurement instrument intended for use by multiple agencies, upon notification from the Contracting Officer, during the performance of the contract, the Contractor must promptly make any necessary changes or modifications to remove any product or service produced or provided by a source that this clause prohibits.

(i) *General report.*

(1) If the Contractor identifies or is notified by any source, (including a subcontractor at any tier), that any product or service provided or used (or to be provided or used) during contract performance does not comply with any prohibition in this clause, then the Contractor must report the following information, or as much information is known, in writing to the contracting office as identified in paragraph (i)(2) within 72 hours:

(i) Contract number and order number, if applicable;

(ii) The specific prohibition the product or service is not complying with;

(iii) A description of the products or services that the Contractor identifies or has reason to suspect is prohibited (include brand; model number, such as the original equipment manufacturer (OEM) number, manufacturer part number, or wholesaler number; and item description, as applicable);

(iv) The entity that produced the product or service (include entity name, UEI, CAGE code, facilities responsible for design, fabrication, assembly, packaging, and test of the product, and whether the entity was the OEM or a distributor (provide manufacturer codes and distributor codes used for the product));

(v) Description of the functionality of the product or service and how that functionality impacts the risk to the product or service;

(vi) An explanation of any factors relevant to determining if the product or service should be permitted by an applicable exception, exemption, or waiver (if the contractor would like the Government to consider a waiver, and asks for such a waiver);

(vii) Whether alternative products or services are available that would comply with the prohibition;

(viii) If the product or service is related to item maintenance, include the following information on the item being maintained:

(A) Brand;

(B) Model number, OEM number, manufacturer part number, or wholesaler number; and

(C) Item description, as applicable.

(ix) Any readily available information about mitigation actions implemented or recommended.

(2) If a report must be submitted to a contracting office, the Contractor must submit the report to the Contracting Officer or for indefinite delivery contracts, the Contractor must report to both the contracting officer for the indefinite delivery contract and the contracting officer for any affected order.

(3) If the report provided does not contain any of the information required by paragraph (i)(1) of this clause, and the contractor later discovers new information that is required by paragraph (h)(1) of this clause, then the contractor must submit a subsequent report within 72 hours of discovering the new information.

(4) The contractor must also report the information in paragraph (i)(1) if the contractor wishes to ask for a waiver of the requirements of a new FASCSA order or covered procurement action being applied through modification.

(j) *New FASCSA orders and covered procurement actions report.*

(1) During contract performance, the Contractor must review SAM at least once every three months, or as advised by the Contracting Officer, to check for covered articles subject to FASCSA order(s) or for products or services produced by a source subject to FASCSA order(s) not currently identified under paragraph (e) of this clause, or products or services prohibited by an applicable covered procurement action.

(2) If the Contractor identifies a new FASCSA order(s) or covered procurement actions that could impact their supply chain, then the Contractor must conduct a reasonable inquiry to identify whether a covered article or product or service produced or provided by a source subject to the FASCSA order(s) or whether a product or service prohibited by an applicable covered procurement action was provided to the

Government or used during contract performance. The inquiry will look at any information in the entity's possession that is accessible but does not need to include an internal or third-party audit.

(3) The Contractor must submit a report to the contracting office identified in paragraph (i)(2) of this clause if the Contractor identifies, including through any notification by a subcontractor at any tier, that a covered article or product or service produced or provided by a source was provided to the Government or used during contract performance and is subject to a FASCSA order(s) or covered procurement action. For indefinite delivery contracts, the Contractor must report to both the contracting office for the indefinite delivery contract and the contracting office for any affected order. The Contractor must report the following information within 72 hours for each covered article or each product or service produced or provided by a source, where the covered article or source is subject to a FASCSA order or covered procurement action:

(i) Contract number and order number, if applicable;

(ii) Name of the covered article or source subject to a FASCSA order or covered procurement action;

(iii) The specific FASCSA order or covered procurement action the product or service does not comply with;

(iv) The elements of (i)(1)(iii) through (ix) of this clause.

(k) *Subcontracts.* The Contractor must include the substance of this clause, including this paragraph (k) but excluding paragraphs (d)(1) and (j)(1), in subcontracts at any tier under this contract, including those for commercial products and commercial services.

Alternate I (DATE). As prescribed in 40.205(b), substitute the following paragraph (e)(1) for paragraph (e)(1) of the basic clause:

(e) *Governmentwide exclusion and removal orders.*

(1) Contractors are prohibited from providing or using as part of the performance of the contract any covered article, or any products or services produced or provided by a source, if the covered article or the source is prohibited by any applicable FASCSA orders identified by the checkbox(es) in this paragraph (e)(1). *[Contracting Officer must select either ''yes'' or ''no'' for each of the following types of FASCSA orders:]*

Yes ☐ No ☐ DHS FASCSA Order
Yes ☐ No ☐ DoD FASCSA Order
Yes ☐ No ☐ DNI FASCSA Order

52.240–4 Classified Information.

As prescribed in 40.302–3, insert the following clause:

Classified Information (DATE)

(a) *Definition.* As used in this clause—

Handle or handling means any use of information, including but not limited to accessing, processing, collecting, developing, receiving, transmitting, storing, marking, safeguarding, transporting, disseminating, reusing, and disposing of the information.

(b) *Applicability.* This clause applies to the extent that the Contractor handles information classified Confidential, Secret, or Top Secret on this contract.

(c) *Requirement.* The Contractor must comply with—

(1) The Security Agreement (DD Form 441), including the *National Industrial Security Program Operating Manual* (32 CFR part 117); and

(2) Any revisions to that manual, notice of which has been furnished to the Contractor.

(d) *Changes.* If, after the date of this contract, the security classification or security requirements under this contract are changed by the Government and if the changes cause an increase or decrease in security costs or otherwise affect any other term or condition of this contract, the contract must be subject to an equitable adjustment as if the changes were directed under the Changes clause of this contract.

(e) *Subcontracts.* The Contractor must include the substance of this clause, including this paragraph (e) but excluding any reference to the Changes clause of this contract, in subcontracts at any tier under this contract that involves access to classified information, including those for commercial products or commercial services.

(f) *Identification.* A subcontractor requiring access to classified information under a contract must be identified with a CAGE code on the DD Form 254. The Contractor must require a subcontractor that handles classified information to provide its CAGE code with its name and location address or otherwise include it prominently in the proposal. Each location of subcontractor performance listed on the DD Form 254 is required to reflect a corresponding unique CAGE code for each listed location unless the work is being performed at a Government facility, in which case the agency location code must be used. The CAGE code must be for that name and location address. Insert the word ''CAGE'' before the number. The CAGE code is required prior to award. The contractor must ensure that subcontractors maintain their CAGE code(s) throughout the life of the contract.

(End of clause)

Alternate I (DATE). As prescribed in 40.302–3(b), add the following paragraphs (f), (g), and (h) to the basic clause:

(f) *Continue performance.* (1) If a change in security requirements, as provided in paragraphs (b) and (c), results in a change in the security classification of this contract or any of its elements from an unclassified status or a lower classification to a higher classification, or in more restrictive area controls than previously required, then the Contractor must exert every reasonable effort compatible with the Contractor's established policies to continue performing the work under the contract to comply with the change in security classification or requirements.

(2) If, despite reasonable efforts, the Contractor determines that continuing work under this contract is not practical because of the change in security classification or requirements, the Contractor must notify the Contracting Officer in writing. Until the Contracting Officer resolves this problem, the Contractor must continue safeguarding all classified material as required by this contract.

(g) *Mutually satisfactory method.* After receiving the written notification, the Contracting Officer must explore the circumstances surrounding the proposed change in security classification or requirements and must try to work out a mutually satisfactory method so the Contractor can continue doing the work under this contract.

(h) *Termination.* If, 15 days after receipt by the Contracting Officer of the notification of the Contractor's stated inability to proceed, the application to this contract of the change in security classification or requirements has not been withdrawn or a mutually satisfactory method for continuing performance of work under this contract has not been agreed upon, the Contractor may request the Contracting Officer to terminate the contract in whole or in part. The Contracting Officer must terminate the contract in whole or in part, as may be appropriate, and the termination must be deemed a termination under the terms of the Termination for the Convenience of the Government clause.

Alternate II (DATE). As prescribed in 40.302–3(c), add the following paragraph (f) to the basic clause:

(f) *Identification.* The Contractor is responsible for furnishing to each employee, and for requiring each employee engaged on the work to

display, such identification as may be approved and directed by the Contracting Officer. All prescribed identification must immediately be delivered to the Contracting Officer, for cancellation upon the release of any employee. When required by the Contracting Officer, the Contractor must obtain and submit fingerprints of all persons employed or to be employed on the project.

52.240–5 Covered Federal Information.

As prescribed in 40.303–2, insert the following clause:

Covered Federal Information (DATE)

(a) *Definitions.* As used in this clause—

Covered contractor information system means an information system that is owned, operated, or used by a contractor that processes, stores, or transmits covered Federal information.

Covered Federal information means information provided by or created for the Government, when that information is other than—

(1) Simple transactional information (such as that necessary to process payments);

(2) Information already publicly released (such as on public websites), or marked for public release, by the Government;

(3) Federally-funded basic and applied research at colleges, universities, and laboratories in accordance with National Security Decision Directive 189;

(4) CUI; or

(5) Classified information.

Handle or handling means any use of information, including but not limited to accessing, processing, collecting, developing, receiving, transmitting, storing, marking, safeguarding, transporting, disseminating, reusing, and disposing of the information.

Information means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).

(b) *Handling requirements.*

(1) Covered contractor information systems requirements. The Contractor must safeguard its covered contractor information systems by implementing, at minimum, the following security controls:

(i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).

(ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.

(iii) Verify and control/limit connections to and use of external information systems.

(iv) Control information posted or processed on publicly accessible information systems.

(v) Identify information system users, processes acting on behalf of users, or devices.

(vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.

(vii) Sanitize or destroy information system media containing covered Federal Information before disposal or release for reuse.

(viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.

(ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.

(x) Monitor, control, and protect organizational communications (*i.e.,* information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.

(xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.

(xii) Identify, report, and correct information and information system flaws in a timely manner.

(xiii) Provide protection from malicious code (*i.e.,* firewalls, virus detection, etc.) at appropriate locations within organizational information systems.

(xiv) Update malicious code (*i.e.,* firewalls, virus detection, etc.) protection mechanisms when new releases are available.

(xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

(2) *Other handling requirements.* The contractor must protect covered Federal information from unauthorized disclosure when handled outside of a covered contractor information system.

(c) *Subcontracts.* The Contractor must include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial products, other than commercially available off-the-shelf items, or commercial services), in which the subcontractor may handle covered Federal information.

(End of clause)

52.240–6 Notice of Controlled Unclassified Information Requirements.

As prescribed in 40.304–7(a), insert the following provision:

Notice of Controlled Unclassified Information Requirements (DATE)

(a) *Definitions.* As used in this provision, *authorized holder, contractor-attributional information, contractor bid or proposal information, controlled unclassified information (CUI), CUI incident, handling, and unauthorized disclosure* have the meaning provided in the clause 52.240–7, Controlled Unclassified Information.

(b) *Government-provided information.* (1) The Offeror must not use Government-provided information for its own purposes, whether or not the information is marked as CUI, unless the information is in the public domain, or unless the information was lawfully made available to the Offeror by someone other than the Government.

(2) If Offeror is required to handle CUI, the Government will provide agency procedures on handling the CUI to ensure compliance with the requirements in 32 CFR part 2002. Offerors must comply with these agency procedures for handling CUI.

(c) *Reporting Unmarked CUI, mismarked CUI, and CUI incidents.*

(1) The Offeror should notify the Contracting Officer within 72 hours of discovery if the Offeror discovers any information within the scope of this solicitation the Offeror has knowledge indicating the information is CUI that—

(i) Is not marked;

(ii) Is not properly marked;

(iii) Is not identified on the SF XXX; or

(iv) Is involved in a CUI incident.

(2) The Offeror should safeguard any information the Offeror has evidence indicating the information is CUI that is not identified in the SF XXX or is not marked or properly marked as required in the SF XXX until a contracting officer makes a determination.

(d) *Plan of Action and Milestones Disclosure.* If the offeror is not compliant with any of the requirements in 52.240–7, the offeror must submit a disclosure as part of their offer to the Contracting Officer that identifies all requirements the offeror is not compliant with and a plan of action and milestones for the offeror to meet the applicable requirements.

(End of provision)

52.240–7 Controlled Unclassified Information.

As prescribed in 40.304–7(b), insert the following clause:

Controlled Unclassified Information (DATE)

(a) *Identifying controlled unclassified information.* The SF XXX, Controlled Unclassified Information (CUI) Requirements, that is incorporated into this contract identifies what controlled unclassified information (CUI) is involved in the contract. The Contractor is required to safeguard only the CUI that is identified in the SF XXX. However, see paragraph (c) of this clause.

(b) *Definitions.* As used in this clause–

Authorized holder is an individual, agency, organization (*e.g.,* contractor), or group of users that is permitted to handle CUI, in accordance with this part.

Adequate security means security protections commensurate with the risk of harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of information.

Cloud computing means a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (*e.g.,* networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction. Cloud computing is characterized by on-demand self-service, broad network access, resource pooling, rapid elasticity, and measured service; and includes service models such as software-as-a-service, infrastructure-as-a-service, and platform-as-a-service (NIST SP 800–145).

Contractor-attributional information means information that identifies the Contractor or its employees directly or identifies them indirectly by grouping information that can be traced back to the Contractor (*e.g.,* program description or facility locations).

Contractor bid or proposal information means any of the following information submitted to a Federal agency as part of or in connection with a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

(1) Cost or pricing data as defined by 10 U.S.C. 3701(1), with respect to procurements subject to that section, and 41 U.S.C. 3501(a)(2), with respect to procurements subject to that section.

(2) Indirect costs and direct labor rates.

(3) Proprietary information about manufacturing processes, operations, or techniques marked by the Contractor in accordance with applicable law or regulation.

(4) Information marked by the Contractor as ''Contractor bid or proposal information'' in accordance with applicable law or regulation.

(5) Information marked in accordance with 52.215–1(e).

Controlled unclassified information (CUI) means information that the Government creates or possesses, or that an entity creates or possesses for or on behalf of the Government, that a law, regulation, or Governmentwide policy requires or permits an agency to handle using safeguarding or dissemination controls. CUI does not include—

(1) Information a Contractor possesses and maintains in its own systems that did not come from, or was not created by or specifically for, an executive branch agency or an entity acting for an agency (see 32 CFR 2002.4); or

(2) Federally-funded basic and applied research at colleges, universities, and laboratories in accordance with National Security Decision Directive 189; or

(3) Information a Contractor creates or possesses that a law, regulation, or Governmentwide policy does not specifically require the Contractor to handle using safeguarding or dissemination controls.

CUI Basic means the subset of CUI for which the authorizing law, regulation, or Governmentwide policy does not set out specific handling or dissemination controls. CUI Basic must be handled according to the uniform set of controls set forth in 32 CFR part 2002 and the CUI Registry.

CUI categories means those types of information for which laws, regulations, or Governmentwide policies require or permit agencies to exercise safeguarding or dissemination controls, and which has been listed in the CUI Registry.

CUI incident means unauthorized disclosure, improper modification, improper destruction of CUI, in any form or medium, or unauthorized access to the information system on which the CUI resides. Improper handling of CUI (*e.g.,* unmarked or mismarked CUI) is not a CUI incident unless the improper handling has resulted in an unauthorized disclosure, improper modification, or improper destruction of CUI.

CUI Registry means the online repository for all information, guidance, policy, and requirements on handling CUI. Among other information, the CUI Registry identifies all approved CUI categories and subcategories, provides general descriptions for each, identifies the basis for controls, establishes markings, and includes guidance on handling procedures (see *https://archives.gov/cui*).

CUI Specified means the subset of CUI for which the authorizing law, regulation, or Governmentwide policy contains specific handling controls that it requires or permits agencies to use and that differ from those for CUI Basic. The CUI Registry indicates which laws, regulations, and Governmentwide policies include such specific requirements.

External service provider means external people, technology, or facilities that an organization utilizes for provision and management of IT and/or cybersecurity services on behalf of the organization.

Federal information system means an information system used or operated by an executive agency, by a contractor of an executive agency, or by another organization on behalf of an executive agency (40 U.S.C. 11331).

Handle or handling means any use of CUI, including but not limited to accessing, processing, collecting, developing, receiving, transmitting, storing, marking, safeguarding, transporting, disseminating, re-using, and disposing of the information.

Information means any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, electronic, or audiovisual forms (see Office of Management and Budget (OMB) Circular No. A–130, Managing Information as a Strategic Resource).

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502(8)).

Lawful Government purpose means any activity, mission, function, operation, or endeavor that the Government authorizes or recognizes as within the scope of its legal authorities or the legal authorities of non-executive branch entities such as state and local law enforcement.

Limited dissemination control means any control identified on the CUI Registry that agencies may use to limit or specify CUI dissemination.

On behalf of an agency means a Contractor uses or operates an information system or maintains or

collects information for the purpose of processing, storing, or transmitting Federal information, and those activities are not incidental to providing a service or product to the Government.

Unauthorized disclosure means when an authorized holder of CUI intentionally or unintentionally discloses, accesses, or observes CUI without a lawful Government purpose, in violation of restrictions imposed by safeguarding or dissemination controls, or contrary to limited dissemination controls.

(c) *Identifying and reporting information the Contractor has evidence indicating the information is potentially CUI.*

(1) The Contractor must notify the Contracting Officer within 72 hours of discovery if—

(i) The Contractor discovers any information that the Contractor has knowledge indicating the information is CUI that is not identified in the SF XXX or is not marked or properly marked as required in the SF XXX;

(ii) There is any inconsistency between this clause and an SF XXX incorporated into the contract.

(2) The Contractor must safeguard any information the Contractor has knowledge indicating the information is CUI that is not identified in the SF XXX or is not marked or properly marked as required in the SF XXX until the Contracting Officer makes a determination. If such information is involved in a CUI incident the contractor must also comply with paragraph (e) of this clause.

(3) The Contractor is not entitled to use Government-provided information for its own purposes, whether or not the information is marked as CUI, unless the information is in the public domain, or unless the information was lawfully made available to the Contractor by someone other than the Government.

(4) The Contractor must appropriately identify information the Contractor owns and provides to the Government (*e.g.,* contractor bid or proposal information, contractor-attributional information, or contractor proprietary business information). The Government will determine in accordance with agency procedures whether the information provided by the Contractor must be handled by the Government as CUI or entitled to other protections by the Government (*e.g.,* contractor-attributional information associated with a CUI incident).

(d) *Handling CUI.*

(1) The Contractor must handle CUI that the Government identifies in the SF XXX and ensure handling is consistent with applicable requirements in 32 CFR 2002.14, 32 CFR 2002.16, 32 CFR 2002.18, 32 CFR 2002.20, and SF XXX.

(i) This includes CUI that the Government provides to the Contractor or CUI that the Contractor handles in performance of the contract.

(ii) For CUI located within a Federally-controlled facility, the Contractor must ensure that any Contractor employees handling CUI within Federally-controlled facilities comply with the requirements identified within Part B on the SF XXX.

(iii) For CUI located within a non-Federally-controlled facility, the Contractor must ensure that any Contractor employees handling CUI within the non-Federally-controlled facility comply with the requirements identified in Part C of the SF XXX.

(iv) When information is not identified as CUI, it may be covered Federal information requiring information system security controls in accordance with Federal Acquisition Regulation clause 52.240–5, Covered Federal Information.

(2) The Contractor is not responsible for handling unmarked or mismarked CUI unless doing so is specifically included in the SF XXX, such as when the Contractor generates or develops CUI that has been designated by the Government. For marking required by the SF XXX, the contractor must use the Banner Format and Marking Notes in the CUI Registry to mark the applicable CUI categories using the indicators in the SF XXX.

(3) Contractors operating information systems that access, use, process, store, maintain, or transmit CUI identified in the contract, must implement the following requirements:

(i) When the Contractor is operating an information system identified in the SF XXX as a Federal information system—

(A) The Contractor must comply with agency-identified security requirements from the latest version of National Institute of Standards and Technology (NIST) Special Publication (SP) 800–53 and any CUI Specified requirements identified in the SF XXX; and

(B) If using cloud computing services, the Contractor must comply with agency-identified security requirements, but at no less than the Federal Risk and Authorization Management Program (FedRAMP) Moderate baseline (*https://www.fedramp.gov/rev5/documents-templates/*).

(ii) When the Contractor is operating a non-Federal information system, except for out-of-scope assets as identified in paragraph (A), the Contractor must comply with the requirements in paragraphs (B) through (F)—

(A) The following assets are out-of-scope:

(*1*) An endpoint hosting a virtual desktop infrastructure client configured to prevent any processing, storage, or transmission of CUI beyond the keyboard/video/mouse sent to the virtual desktop infrastructure client).

(*2*) Commercial communications networks that transmit government and non-government information using the same equipment, protocols, and methodologies, without regard to the source or recipient of the information.

(B) Comply with the security requirements of NIST SP 800–171 Revision 3, ''Protecting Controlled Unclassified Information in Non-Federal Information Systems and Organizations'' (available via the internet at *https://dx.doi.org/10.6028/NIST.SP.800-171*). The organizational defined parameters (ODP) provided at the web page at *https://dowcio.war.gov/Portals/0/Documents/CMMC/OrgDefinedParmsNISTSP800-171.pdf* must be applied for applicable NIST SP 800–171 Revision 3 security requirements;

(C) Comply with all security requirements for CUI Specified identified by the agency in the SF XXX;

(D) Comply with any requirements from NIST SP 800–172, Enhanced Security Requirements for Protecting Controlled Unclassified Information, identified by the agency for a critical program or high-value asset. For any requirements in NIST SP 800–172 identified by the agency, the organizational defined parameters (ODP) provided elsewhere in this solicitation, as described in part D of SF XXX, must be applied for applicable security requirements;

(E) Ensure that, if the Contractor uses a cloud service provider to store, process, or transmit any CUI identified in SF XXX—

(*1*) The cloud computing service provider meets security requirements equivalent to those established by the Government for FedRAMP Moderate baseline (*https://www.fedramp.gov/rev5/documents-templates/*); and

(2) The additional requirements in paragraph (d)(3)(ii)(D) of this clause are met; and

(F) Make the system security plan available (plan must identify use of any external service provider handling CUI), and any associated plans of action required by NIST SP 800–171, for any planned implementations or mitigations to the Government upon request to demonstrate the Contractor's implementation or planned

implementation of the security requirements.

(e) *CUI incidents.*

(1) For CUI in a Federally-controlled facility, the Contractor must report CUI incidents in accordance with agency policy as specified in the SF XXX.

(2) For CUI in a non-Federally-controlled facility, the Contractor must report any CUI incident (except for any CUI incident involving a FedRAMP authorized cloud computing service provider that is reported in accordance with FedRAMP Incident Communication Procedures) within 72 hours of discovery to *https://dibnet.dod.mil* for DoD contracts and to CISA for non-DoD contracts at *https://www.cisa.gov/reporting-cyber-incident* and provide a notification to the contracting officer and next higher tier contractor (if applicable) that a CUI incident report has been submitted.

(i) The contractor must submit in the first report as many of the applicable data elements as identified in the applicable website that are available at the time.

(ii) If the first report does not contain all of the applicable data elements or some of the information changes after the investigation is substantially complete, the contractor must submit a subsequent report containing the updated or new information.

(3) When the Contractor discovers a CUI incident, the Contractor must—

(i) Determine and inventory what CUI was or could have been improperly accessed, created, collected, used, processed, stored, maintained, disseminated, disclosed, or disposed of;

(ii) Construct a timeline of user activity;

(iii) Determine methods and techniques used to access CUI; and

(iv) Cooperate and exchange information with agency officials, as determined necessary by the agency, in order to effectively report and manage a CUI incident.

(4) If the CUI incident has occurred on an information system, preserve and protect available images of all known affected information systems and all relevant monitoring and packet capture data until the Government declines interest or 90 days from the date of the submission of the report passes without the Government requesting the media and data, whichever is sooner.

(5) The reporting requirements of this clause do not relieve the Contractor from the requirement to follow any applicable laws, regulations, or policies outside of this clause.

(f) *Resolving Conflicts with Other Laws or Regulations.* Contractors must notify the contracting officer within 72 hours of determining that they are not able to comply with any of the requirements in this clause due to conflict with another law or regulation.

(g) *Subcontracts.* The Contractor must include in each subcontract at any tier under this contract that will require access to or the ability to access CUI identified in the SF XXX, Controlled Unclassified Information (CUI) Requirements, including those for commercial products (other than those for commercially available off-the-shelf items) or commercial services—

(1) The substance of this clause, including this paragraph (g), without alteration except to identify the parties; and

(2) Any applicable information within the SF XXX to indicate to the subcontractor what CUI applies to the subcontract.

(End of clause)

52.252–1 and 52.252–2 [Removed and Reserved]

24. Remove and reserve sections 52.252–1 and 52.252–2.

25. Revise sections 52.252–3 through 52.252–6 to read as follows:

52.252–3 Alterations in Solicitation.

As prescribed in 52.107(a), insert the following provision:

Alterations in Solicitation (DATE)

Portions of this solicitation are altered as follows: _____

(End of provision)

52.252–4 Alterations in Contract.

As prescribed in 52.107(b), insert the following clause:

Alterations in Contract (DATE)

Portions of this contract are altered as follows: _____

(End of clause)

52.252–5 Authorized Deviations in Provisions.

As prescribed in 52.107(c), insert the following provision:

Authorized Deviations in Provisions (DATE)

(a) The use in this solicitation of any Federal Acquisition Regulation (48 CFR chapter 1) provision with an authorized deviation is indicated by the addition of (DEVIATION) after the date of the provision.

(b) The use in this solicitation of any ____ [insert regulation name] (48 CFR chapter ____) provision with an authorized deviation is indicated by the addition of (DEVIATION) after the name of the regulation.

(End of provision)

52.252–6 Authorized Deviations in Clauses.

As prescribed in 52.107(d), insert the following clause:

Authorized Deviations in Clauses (DATE)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of (DEVIATION) after the date of the clause.

(b) The use in this solicitation or contract of any ____ [insert regulation name] (48 CFR ____) clause with an authorized deviation is indicated by the addition of (DEVIATION) after the name of the regulation.

(End of clause)

52.253–1 [Removed and Reserved]

■ 26. Remove and reserve section 52.253–1.

Subpart 52.3 [Removed and Reserved]

■ 27. Remove and reserve subpart 52.3, consisting of section 52.300 and 52.301.

PART 53 [Removed and Reserved]

■ 28. Remove and reserve part 53, consisting of sections 53.000, 53.001, subparts 53.1, 53.2, and 53.3.

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Part IV

Office of Management and Budget

Office of Federal Procurement Policy

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 6, 7, 10 et al.
Federal Acquisition Regulation: Revolutionary Federal Acquisition Regulation Overhaul Parts 6, 7, 10, 18, 26, 37, and 41; Proposed Rule

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 6, 7, 10, 18, 26, 37, 41, and 52

[FAR Case 2026–002, Docket No. FAR–2026–0002, Sequence No. 1]

RIN 9000–AO87

Federal Acquisition Regulation: Revolutionary Federal Acquisition Regulation Overhaul Parts 6, 7, 10, 18, 26, 37, and 41

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB); Department of Defense (DoD); General Services Administration (GSA); and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: OFPP, DoD, GSA, and NASA (collectively referred to as the Federal Acquisition Regulatory Council or FAR Council) are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 14275, Restoring Common Sense to Federal Procurement. The E.O. directs the elimination of excessive acquisition regulations to stop the inefficient use of American taxpayer dollars. The FAR Council is issuing twelve proposed rules that collectively will streamline the FAR in its entirety. This rule proposes revisions to FAR parts 6, 7, 10, 18, 26, 37, 41, and 52.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before July 23, 2026, to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2026–002 to the Federal eRulemaking portal at *https://www.regulations.gov.* Follow the instructions for sending comments.

Instructions: Please submit comments only and cite ''FAR Case 2026–002'' in all correspondence related to this case. Include your name, company name (if any), and ''FAR Case 2026–002'' on any attached document. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. Public comments may be submitted as an individual, as an organization, or anonymously (see frequently asked questions at *https://www.regulations.gov/faq*). To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov/FAR-2026-0002.*

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact *FARpolicy@gsa.gov* or call 202–969–4075 and cite ''FAR Case 2026–002.'' For information pertaining to status, publication schedules, or alternate instructions for submitting comments if *https://www.regulations.gov* cannot be used, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite ''FAR Case 2026–002.''

SUPPLEMENTARY INFORMATION:

I. Background

E.O. 14275, Restoring Common Sense to Federal Procurement (April 15, 2025), resets the foundation for Federal buying by requiring the FAR Council to produce a streamlined FAR that is simpler, clearer, and structured for speed. According to the E.O., the FAR has evolved from its original purpose (*i.e.,* to establish uniform procedures across executive departments and agencies), into an excessive and overcomplicated regulatory framework and bureaucracy. While meant to ''deliver, on a timely basis, the best value product or service to the customer, while maintaining the public's trust and fulfilling public policy objectives,'' the FAR has become an expensive barrier to achieving those objectives. As a result, the E.O. directed the FAR Council and OMB to create an agile, effective, and efficient regulation that contains only provisions required by statute or essential to sound procurement.

To implement E.O. 14275, OMB issued Memorandum M–25–26, Overhauling the Federal Acquisition Regulation, which announced the ''Revolutionary FAR Overhaul'' (RFO) and created a roadmap for producing simpler regulations aligned to statute, rewritten in plain language, and including nonstatutory requirements that are necessary to conducting a sound procurement. The memorandum described a new streamlined vision for the FAR, to be maintained alongside nonregulatory governmentwide guidance to provide a common-sense authoritative foundation for nimble response and delivery of mission capability.

This new vision represents a paradigm shift where over-engineered regulations designed for paperwork and compliance are replaced with streamlined regulations focused on core stewardship principles and nonregulatory guidance that will be used in concert with the streamlined FAR focused on proven buying strategies, critical thinking, market awareness (including to expand awareness of goods, products, and materials offered in the United States), and risk literacy to enhance workforce problem-solving. The significant reduction of unnecessary mandates is intended to clarify and reinforce the contracting officer's discretion to determine the best way to apply policies and practices. The newly established, nonregulatory guidance, which has been inspired by acquisition innovation advocates, category managers, other experienced practitioners, and many years of feedback from the contractor community—is expected to facilitate contracting officers' use of their discretion more efficiently and effectively to make smarter buying decisions.

OMB Memorandum M–25–26 also directed the FAR Council to complete the regulatory overhaul in two phases, each with robust public input. The FAR Council conducted its phase one effort in fiscal year 2025 by issuing model class deviations to replace each part in the FAR until such time as formal rulemaking occurred. This proposed rule is one of a series that constitute the FAR Council's phase two effort to obtain public comment through formal rulemaking.

II. Discussion and Analysis

A summary of proposed changes to existing FAR parts 6, 7, 10, 18, 26, 37, 41, and their corresponding provisions and clauses in part 52 follows:

A. General

1. *General RFO updates.* This proposed rule generally reorganizes the FAR parts into phases of acquisition and simplifies the text into plain language, where possible. The plain language efforts include changes to active voice, edits to improve readability, and reorganization to present information more logically. None of the plain language edits are intended to change existing FAR requirements. The rewriting of the entire FAR also required edits to harmonize the changes being

proposed such as updating the cross-references. This aligns with the Federal plain language guidelines as directed by the Plain Writing Act of 2010 (5 U.S.C. 301 note).

2. *Standardization of prescriptions.* This rule proposes revisions to standardize prescriptions for provisions and clauses. These changes are intended to provide better clarity around the applicability of provisions and clauses such as whether they apply to commercial products and services.

3. Use of ''must'' instead of ''shall''. Additional revisions are being proposed throughout the FAR text and FAR provisions and clauses to replace the use of the term ''shall'' with ''must'' or ''will,'' as appropriate, to impose requirements.

4. Non-statutory requirements. Section 4 of the E.O. required amendments to the FAR to ensure it contains only provisions that are required by statute or that are otherwise necessary to support simplicity and usability, strengthen the efficacy of the procurement system, or protect economic or national security. The FAR Council reviewed all non-statutory requirements to determine if they are still relevant and essential to sound procurement in today's contracting environment based on the criteria from section 4 of the E.O. The proposed rule retains non-statutory requirements that further one or more of the elements of sound procurements, including those requirements that serve as guardrails to protecting taxpayer interests and promote taxpayer confidence in the procurement system. Non-statutory requirements that were beneficial but not essential were retained in the non-regulatory guidance documents. Other non-statutory requirements that did not meet these standards, were removed. The Council considered the extent to which regulation is the most efficient means for capturing the benefit of the policy. For example, most ''how to'' requirements were found to be more appropriately suited for non-regulatory coverage which better enables a contracting officer to use discretion in determining the application of a strategy to a given situation and limits the risk of overapplication, which can create wasteful burden on the contracting parties.

As part of the RFO, the FAR Council has created a number of non-regulatory resources, including the FAR Companion, which provides insight from experienced practitioners across the government on using more streamlined practices and processes. The migration of significant coverage to non-regulatory guidance is intended to ensure that the benefits of the policy are not outweighed by the compliance burden of a more rigidly written regulation that is prone to application in an overly broad manner. This approach was explained to the public in a set of ''frequently asked questions'' that were posted on the Revolutionary FAR Overhaul homepage shortly after the initiative was launched.

B. FAR Part 6

This proposed rule revises FAR part 6 to simplify and streamline the policies and procedures pertaining to competition. These revisions align with the broader RFO initiatives and do not substantively change the policy or procedures in the part. Several types of streamlining are highlighted below with specific examples for further illustration.

1. Eliminating redundancy. The proposed rule captures existing FAR subpart 6.2, Full and Open Competition After Exclusion of Sources, content at FAR section 6.102. The proposed text significantly streamlines the content through several simple adjustments. For example, where existing text repeats ''No separate justification or determination and findings is required under this part to . . .'' before each specific authority, the proposed rule simply states one time, upfront: ''Acquisitions under this section do not require J&As.'' This change alone significantly reduces repetitive text and improves readability.

Another example is the advocate for competition coverage at existing FAR subpart 6.5, which merely repeats statutory requirements. Regulations do not need to repeat statutes. The coverage for advocates for competition is streamlined and moved to FAR 6.003.

2. Focusing on essential policy. The existing FAR 6.302 section includes extensive ''application'' paragraphs for each authority (FAR 6.302–1(b) *et seq.*). These paragraphs generally expound on the underlying authorities with duplicative, nonstatutory, or non-exhaustive example listings that are better left to agency discretion and may unintentionally constrain field flexibility.

Another example is the conditional language regarding justifications for the public interest authority for other than full and open competition at existing FAR 6.302–7(c)(3). This statutory authority requires an agency head determination and expressly does not require a justification. The elective treatment creates ripple effects and adds complexity to other sections in part 6. For example, existing FAR 6.303–1(d) adds nuance by informing contracting officers that justifications using the public interest authority may not be made on a class basis. The proposed rule simplifies this by simply stating no justification is required (proposed FAR 6.103–7(d)), clearly stating the agency head determination responsibility for public interest (proposed FAR 6.103–7(c)), and clearly stating that justifications generally may be made on an individual or class basis (proposed FAR 6.104(c)).

The proposed revisions significantly streamline the content by focusing on the core statutory authorities for using other than full and open competition. These changes do not fundamentally alter policy and provide a more focused treatment of underlying statutory authorities.

3. Threshold adjustments. This rule proposes adjusting the justification approval thresholds to align with Section 1804 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2026 (Pub. L. 119–60). The NDAA language addresses threshold changes for the use of procedures other than competitive procedures at 10 U.S.C. 3204 for DoD, NASA, and United States Coast Guard. Additionally, this rule proposes to revise the way the thresholds and corresponding approval authorities are displayed by presenting them in an enhanced table format (see Table 6–1 in FAR 6.104–2).

C. FAR Part 7

1. General. This proposed rule revises FAR part 7 to emphasize thoughtful acquisition planning based on the complexity and circumstance of each procurement and clarifies that the acquisition planning process is not merely the act of creating an acquisition plan document.

The proposed rule establishes the fundamental requirement for acquisition planning in all acquisitions. Having a plan is key to ensuring the guiding principles of the acquisition system are met. Revisions at FAR 7.102 now mandate that agencies establish procedures for determining when a written or oral plan is needed and list high-level outcomes that planning must promote: acquisition of commercial products or services; full and open competition; selection of appropriate contract type; and use of existing contracts.

2. Agency-head Responsibilities. The proposed rule revises agency-head responsibilities from a long list of specific tasks to a list of high-level responsibilities, such as creating streamlined procedures for different acquisition types (*e.g.,* orders, commercial products and services),

establishing criteria for high-risk contracts, and ensuring small business opportunities are considered. This proposed rule emphasizes the responsibility for heads of contracting agencies to establish streamlined acquisition planning thresholds and criteria. For example, the revisions make clear distinctions between task orders and delivery orders and the award of new contracts, requiring appropriate acquisition planning for each. The placing of task orders and delivery orders is a faster and more streamlined process with significantly fewer pre-award actions required than in awarding new contracts.

Additionally, this proposed rule outlines general procedures for acquisition planning and moves the specific contents of written acquisition plans to the FAR companion guide.

3. Consolidation and Bundling. Proposed edits at FAR 7.107 also unify the sections related to consolidation, bundling, and substantial bundling which adds simplicity to training, processes, and timeframes. The proposed rule streamlines and standardizes the analysis, determination, and notification requirements for consolidation and bundling—there are no longer separate requirements for each.

4. Restructuring and Eliminating Redundancy. This proposed rule removes or relocates FAR content that is outdated, redundant, or otherwise unnecessary such as: major systems acquisition planning which is in existing FAR part 34, Major System Acquisition; Contractor Versus Government Performance and its underlying sections as Congress has consistently placed a statutory hold on A–76 competitions since 2008; and FAR 52.207–1, Notice of Standard Competition, FAR 52.207–2, Notice of Streamlined Competition, and FAR 52.207–3, Right of First Refusal of Employment.

5. Relocation of FAR subpart 7.5. The inherently governmental functions policy is relocated from existing FAR subpart 7.5 to subpart 37.3. For more details, see Discussion and Analysis section II.G.3.

6. Relocation of FAR part 10. This proposed rule relocates and streamlines existing FAR part 10 content to FAR subpart 7.2, because market research is fundamentally an integral component of acquisition planning. The acquisition community cannot effectively plan an acquisition without first understanding the marketplace, available solutions, and industry capabilities. This reorganization reflects the reality that market research is the foundation upon which sound acquisition strategies are built, making it more logical to address these interconnected activities within a single part devoted to the planning phase of the acquisition process.

The proposed FAR 7.201(f) requires agencies to procure commercial products and commercial services to the maximum extent practicable by following a specified order of available solutions in Federal contracts for efficient use.

The proposed FAR subpart 7.2 provides more flexibility for acquisition professionals conducting market research for given agency requirements, freeing agencies to implement best approaches rather than follow an overly prescriptive process regardless of the marketplace for a given requirement. The FAR no longer lists specific market research considerations or techniques that must be used. Agencies will have the flexibility to choose the market research method that best fits their needs. Acquisition professionals must still comply with the Competition in Contracting Act of 1984 (Title VII of Pub. L. 98–369), which may necessitate market research. While existing FAR clause 52.210–1, Market Research, is not required by statute for civilian agencies, it has been retained as essential to the acquisition process and relocated to FAR 52.207–7.

7. Relocation of FAR 15.201. Additionally, this rule relocates the industry engagement requirements previously found in FAR 15.201 to FAR 7.105.

D. FAR Part 10

FAR part 10 is now marked reserved and does not contain any policy. Its content is relocated to FAR subpart 7.2. For more details, see Discussion and Analysis section II.C.6.

E. FAR Part 18

FAR part 18 is now marked reserved and does not contain any policy. The content is relocated to a website and FAR subpart 26.2. For more details, see Discussion and Analysis section II.F.3.

F. FAR Part 26

This proposed rule revises FAR part 26 to simplify and streamline the policies and procedures pertaining to other socioeconomic programs. These revisions align with the broader RFO initiatives, and do not substantively change fundamental policy or procedures in the part. Several types of streamlining are highlighted below with specific examples for further illustration.

1. Eliminating redundancy. Existing FAR 26.103 content on the Indian Incentive Program is relocated to FAR 26.303. The proposed text, however, significantly streamlines content. For example, the existing policy contains extensive nonstatutory procedural detail involving contractor engagement. This content is already captured in FAR contract clause 52.226–1, Utilization of Indian Organizations and Indian-Owned Economic Enterprises. The intricate policy detail provided negligible value, and the streamlined approach reduces relevant text significantly while improving readability.

2. Focusing on essential policy. Existing FAR subpart 26.4, Food Donations to Nonprofit Organizations, is relocated to subpart 26.5. The subpart includes essential policy to comply with statutory requirements at 42 U.S.C. 1792, Promoting Federal food donation. The policy includes the prescription for contract clause FAR 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations. The existing contract clause, however, includes a paragraph (e) requiring the flowdown of the clause to subcontractors. Upon review of the underlying statute, no flowdown is required by statute and provides minimal benefit, as the liability protections for food donation are granted by the Bill Emerson Good Samaritan Food Donation Act (41 U.S.C. 1791) and apply to all entities, including subcontractors, regardless of the clause's presence. To reduce administrative burden, this nonstatutory flowdown is removed in the proposed revision to FAR 52.226–6.

3. Part 18 streamlining and incorporation. Given the alignment in content in existing FAR part 26, Other Socioeconomic Programs, and existing FAR part 18, Emergency Acquisitions, FAR subpart 18.2 is incorporated at FAR subpart 26.2. Additionally, the static list of general acquisition flexibilities in existing FAR subpart 18.1 is replaced with a link to a more dynamic repository. These flexibilities have been consolidated into a single reference point for existing authorities now available by clicking on the link which takes the reader to an Emergency Procurement List. Replacing the regulatory text with a URL [*https://acquisition.gov/emergency-procurement*] provides Government users a more dynamic resource summarizing flexibilities already codified in disparate sections of the FAR.

Additionally, duplicative references to the micro-purchase threshold, the simplified acquisition threshold, and the Presidential declaration of a major disaster or emergency, that appeared in existing FAR parts 18 and 26 are

consolidated in the proposed rule's FAR part 26 to eliminate redundancy.

4. Definition relocation. With the consolidation of emergency contracting content into FAR part 26, the definition of disaster response registry is relocated from existing FAR 2.101 to FAR 26.101. Additionally, definitions for historically black college or university and minority institutions are moved from existing FAR 2.101 to the proposed FAR 26.401. While these inclusions are addressed in this proposed rule, the removal of the definition from existing FAR part 2 is addressed in a parallel RFO proposed rule (FAR Case 2026–001) which more holistically addresses part 2 proposed revisions.

G. FAR Part 37

This proposed rule revises FAR part 37 to simplify and streamline the policies and procedures pertaining to service contracting. These revisions align with the broader RFO initiatives and do not substantively change policy or procedures in the part. Several types of streamlining are highlighted below with specific examples for further illustration.

1. Eliminating extraneous content. Several areas within existing FAR part 37 were extraneous or were addressed in multiple locations across the existing FAR. For example, the scope section in existing FAR 37.000 contains nonessential text, when the part title is reasonably descriptive as to the contents of the part.

Several areas within existing FAR part 37 contained definitions that were unnecessary. For example, existing FAR 37.101 provides a definition of ''nonpersonal services contract.'' The definition of a ''nonpersonal services contract'' simply means those services contracts which are not a ''personal services contract,'' which is already a defined term at FAR 2.101. Accordingly, the extraneous definition is deleted.

Similarly, FAR 37.101 includes a definition for ''performance-based contracting.'' The definition is largely duplicative of the existing FAR 2.101 definition of ''performance-based acquisition.'' Accordingly, the term is deleted in the proposed revision to further simplify and streamline.

Another example at existing FAR 37.501 is the term ''best practices,'' a ubiquitous term with context and understanding beyond simply services contracting. Furthermore, this rule proposes to remove the entire FAR subpart 37.5, Management Oversight of Service Contracts, as it addresses nonstatutory, and rather generic, policy not specifically limited to services contracting.

2. Restructuring. In addition to the acquisition lifecycle phasing, the proposed rule includes extensive restructuring to improve readability. For example, performance-based acquisition appears as both a general policy matter at existing FAR 37.102 and in a dedicated subpart at existing FAR 37.6. The proposed revision consolidates performance-based acquisition policy to one subpart at FAR 37.1. This provides a single reference point for essential guidance on a core statutory requirement.

Another structural peculiarity in the existing text is the inclusion of myriad miscellaneous policies within FAR subpart 37.1, Service Contracts-General. The proposed revision shifts most of these policies that do not apply to services contracts generally, and did not necessarily warrant a dedicated subpart, to a newly established FAR subpart 37.8, Other Service Considerations.

This reshuffling brings parity to additional structural peculiarities. For example, treatment of nonpersonal health care services holds a dedicated policy subpart at existing FAR subpart 37.4, despite being nonstatutory because it is policy considered essential for sound procurement. Meanwhile, statutory requirements for background checks in child care service contracts were relegated to a seemingly random subparagraph at FAR 37.103 under miscellaneous contracting officer responsibilities. Accordingly, a new subpart in the proposed revision at FAR subpart 37.5, Child Care Services, is established to bring parity and ensure the responsibilities are understood and shared by the agency's acquisition community when developing contracts and overseeing contracts and not solely a contracting officer's responsibility.

3. Inherently governmental functions. The inherently governmental functions policy is relocated from existing FAR subpart 7.5 to subpart 37.3 because determining which functions must remain governmental is a critical component of acquisition planning specifically for service contracts. Acquisition planners cannot properly plan a services acquisition without first understanding what work can legally be performed by contractors versus what must be performed by Government personnel. This reorganization recognizes that inherently governmental determinations are integral to service contract planning and should be addressed alongside other service contracting considerations.

H. FAR Part 41

FAR part 41 is being revised to simplify and streamline the policies and procedures pertaining to the acquisition of utilities. This change more clearly directs civilian agencies to GSA for their procurements of utilities.

These revisions align with the broader RFO initiatives, and do not substantively change the policy or procedures in the part. General changes include plain-language and grammar changes (*e.g.,* using acronyms and consistency for number references) and clarifying the location of guidance from GSA to civilian agencies. Clauses and provisions have been updated for plain-language and consistent use of acronyms. The FAR clause at 52.241–13 is revised to more broadly speak to the Government and contractors complying with the terms of utility cooperatives in general, instead of speaking solely to the application of capital credits specifically.

I. FAR Part 52

Discussion and analysis for provisions and clauses updated in this rule. Provisions and clauses associated with a particular FAR part are discussed within the relevant FAR part's analysis (*e.g.,* the proposed removal of FAR clauses 52.207–1, 52.207–2, and 52.207–3 is addressed at Discussion and Analysis section II.C.4).

FAR part 52 renumbering of provisions and clauses. As a result of the RFO, the FAR Council is considering establishing a new subpart in part 52 and relocating and renumbering all provisions and clauses under this new subpart. This means, if FAR subpart 52.4 was used, all provisions and clauses would begin with 52.4 instead of 52.2. This change is anticipated to prevent confusion and increase compliance by creating a clear distinction between versions of a provision or clause prior to the RFO. Other benefits include avoiding potential clause numbering conflicts and information system and data collection impacts. The FAR Council welcomes comments on the potential impact of such a change on contractors, Government personnel, and other stakeholders.

III. Applicability to Contracts and Subcontracts Valued at or Below the Simplified Acquisition Threshold and for Commercial Products and Commercial Services

The following sections address the applicability of provisions and clauses prescribed in FAR parts 7, 26, 37, and 41 to solicitations and contracts valued at or below the simplified acquisition threshold (SAT) and those for the acquisition of commercial products, commercially available off-the-shelf

(COTS) items, and commercial services. Prescriptions for provisions and clauses in these parts have been updated to reflect applicability to commercial acquisitions.

A. Contracts and Subcontracts Valued at or Below the Simplified Acquisition Threshold

This proposed rule, if finalized, does not alter the prescriptions of provisions and clauses included in this proposed rule to change their applicability to contracts and subcontracts valued at or below the SAT.

B. Contracts and Subcontracts for Commercial Products, Commercially Available Off-The-Shelf Items, and Commercial Services

41 U.S.C. 1906 governs the applicability of laws to contracts for the acquisition of commercial products and commercial services and gives the FAR Council the authority to determine to apply a law to contracts or subcontracts for the acquisition of commercial products and commercial services. 41 U.S.C. 1907 exempts contracts for commercially available off-the-shelf (COTS) items from certain provisions of law unless the Administrator for Federal Procurement Policy determines that doing so would not be in the best interest of the Federal Government.

Section 839 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232) required the FAR Council and the Administrator of Federal Procurement Policy to review prior determinations under 41 U.S.C. 1906 and 41 U.S.C. 1907, as well as the applicability of provisions and clauses to contracts and subcontracts for commercial products, COTS items, and commercial services that do not implement statute or Executive order, and propose amendments to the FAR to eliminate or exempt such requirements from commercial acquisitions, unless there are specific reasons to retain particular requirements.

In accordance with section 839 of the NDAA for FY 2019 and their authorities under 41 U.S.C. 1906 and 1907, the FAR Council reviewed the applicability of the provisions and clauses associated with the FAR parts covered by this proposed rule. The following table reflects the FAR Council and Administrator of Federal Procurement Policy's proposed determination regarding the applicability of the provisions and clauses to solicitations and contracts for commercial products, COTS items, and/or commercial services. In making proposed applicability determinations, the FAR Council considered factors such as whether the provision or clause advances national security or economic security, contributes to the resilience of contractors and subcontractors in the federal marketplace, or advances uniformity and clarity in the performance of basic functions that are essential to sound procurement.

Accordingly, this proposed rule, if finalized, would revise provision and clause prescriptions to clearly reflect applicability to commercial acquisitions as outlined in the table. An ''X'' in the following table indicates the provision or clause will apply to that category of commercial acquisition, as prescribed:

Provision/clause number	Title	Commercial products	Commercial services	COTS items
52.207–4	Economic Purchase Quantity-Supplies			
52.207–5	Option to Purchase Equipment			
52.207–6	Solicitation of Offers from Small Business Concerns and Small Business Teaming Arrangements or Joint Ventures (Multiple-Award Contracts).	X	X	X
52.207–7	Market Research			
52.226–1	Utilization of Indian Organizations and Indian-Owned Economic Enterprises.	X	X	
52.226–2	Historically Black College or University and Minority Institution Representation.	X	X	
52.226–3	Disaster or Emergency Area Representation	X	X	X
52.226–4	Notice of Disaster or Emergency Area Set-Aside	X	X	X
52.226–5	Restrictions on Subcontracting Outside Disaster or Emergency Area.	X	X	X
52.226–6	Promoting Excess Food Donation to Nonprofit Organizations			
52.226–7	Drug-Free Workplace			
52.226–8	Encouraging Contractor Policies to Ban Text Messaging While Driving.	X	X	X
52.237–1	Site Visit		X	
52.237–2	Protection of Government Buildings, Equipment, and Vegetation		X	
52.237–3	Continuity of Services		X	
52.237–4	Payment by Government to Contractor		X	
52.237–4 Alt I	Payment by Government to Contractor		X	
52.237–5	Payment by Contractor to Government		X	
52.237–6	Incremental Payment by Contractor to Government		X	
52.237–7	Indemnification and Medical Liability Insurance		X	
52.237–8	Restriction on Severance Payments to Foreign Nationals			
52.237–9	Waiver of Limitation on Severance Payments to Foreign Nationals			
52.237–10	Identification of Uncompensated Overtime			
52.241–1	Electric Service Territory Compliance Representation		X	
52.241–2	Order of Precedence-Utilities		X	
52.241–3	Scope and Duration of Contract		X	
52.241–4	Change in Class of Service		X	
52.241–5	Contractor's Facilities		X	
52.241–6	Service Provisions		X	
52.241–7	Change in Rates or Terms and Conditions of Service for Regulated Services.		X	
52.241–8	Change in Rates or Terms and Conditions of Service for Unregulated Services.		X	
52.241–9	Connection Charge		X	

Provision/clause number	Title	Commercial products	Commercial services	COTS items
52.241–9 Alt I	Connection Charge		X	
52.241–10	Termination Liability		X	
52.241–11	Multiple Service Locations		X	
52.241–12	Nonrefundable, Nonrecurring Service Charge		X	
52.241–13	Capital Credits		X	

The FAR Council also reviewed subcontract flow down requirements in clauses associated with the FAR parts covered by this proposed rule. The following table reflects the FAR Council and Administrator of Federal Procurement Policy's proposal regarding whether those clauses flow down to subcontracts for commercial products, COTS items, and/or commercial services. This proposed rule, if finalized, would revise the subcontract paragraphs in these clauses to clearly state whether the clause flows down to commercial subcontracts, as outlined in the table. An ''X'' in the following table indicates the provision or clause will apply to subcontracts for that category of commercial subcontracts, as described in the clause:

Clause no.	Title	Commercial products	Commercial services	COTS items
52.226–8	Encouraging Contractor Policies to Ban Text Messaging While Driving.			
52.237–9	Waiver of Limitation on Severance Payments to Foreign Nationals			

IV. Expected Impact of the Rule

The intended impact of the RFO, as stated in E.O. 14275, is to restore the Government's ability to ''deliver on a timely basis the best value product or service to the customer, while maintaining the public's trust and fulfilling public policy objectives.'' Each of the RFO rulemakings is designed to contribute to this impact by emphasizing mission first, by aligning acquisition activities directly to achieving the agency's overarching objectives and serving the public interest and elevating the importance of fiscal responsibility. The proposed RFO rules focus on three goals in particular: (1) timely acquisition and delivery, (2) lower cost and accountability in all spending, and (3) increased competition.

Timeliness. Timely acquisition and delivery are essential for mission success. To this end, RFO rules propose to eliminate mandates that unnecessarily interfere with agency discretion to determine the best way to procure products and services. The proposed RFO rules highlight more clearly streamlined and simplified authorities that allow buyers to use their time more efficiently and are expected to reduce time between solicitation and award. The proposed RFO rules are expected to make it easier for contracting officers to leverage commercial practices that are familiar to the commercial marketplace. This is expected to make it easier for sellers to engage and respond to Government solicitations more rapidly.

Lower cost. E.O. 14271, Ensuring Commercial, Cost-Effective Solutions in Federal Contracts (April 15, 2025), directs the Government to utilize, to the maximum extent practicable, the commercial marketplace and the innovations of private enterprise to provide better, more cost-effective services to taxpayers, as envisioned by the Federal Acquisition Streamlining Act. The procurement of custom products and services where a suitable or superior commercial solution would have fulfilled the Government's needs has resulted in avoidable waste to the detriment of American taxpayers.

To address these concerns, consistent with associated responsibilities in section 839 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232), the FAR Council reviewed prescriptions for provisions and clauses to ensure all prescriptions are clear regarding their applicability to acquisitions for commercial products and services. Currently, many prescriptions do not specify applicability to commercial acquisitions and leave the applicability determination to contracting officer interpretation. By specifically stating when a provision or clause can be applied to commercial acquisitions, proposed RFO rules should decrease the likelihood of inclusion of provisions and clauses in commercial acquisitions that are not required by law and drive greater consistency in the terms and conditions used in these contracts. In turn, these changes should increase the participation of commercial sellers, who are unwilling or unable to manage the cost of complying with noncommercial requirements, and also improve taxpayer access to affordable commercial solutions.

Some RFO rules propose to delete requirements placed on commercial or noncommercial sellers that are not related to performance of the contract, drive up cost without attendant performance benefits, and may misdirect efforts away from innovation, investment and economic growth. Greater emphasis on timeliness should reduce bidders' carrying costs, enabling them to pass those savings on to customers through lower prices.

Increased competition. Since enactment of the Competition in Contracting Act of 1984 (Title VII of Pub. L. 98–369), competition has been the cornerstone of the Federal acquisition system. The benefits of competition are well established: competition saves money for the taxpayer, improves contractor performance, curbs fraud, and promotes accountability for results. Competition also drives contractor resilience and positions the U.S. market to develop a strategic advantage for the nation.

According to data in the SAM Contracts Awards Management, roughly 45 percent of contract dollars were awarded in FY 2025 either without competition or with competition that received only one offer. Of equal concern, the Federal marketplace has seen a significant decline over the past 20 years in the number of businesses—especially small businesses—participating in the Federal supplier base. Studies suggest that high compliance costs lead to the misallocation of resources away from more profitable activities and

discourage innovation, investment, and economic growth (Council of Economic Advisers, Executive Office of the President. June 2025. The Economic Benefits of Current Deregulatory Policies. *https://www.whitehouse.gov/wp-content/uploads/2025/03/The-Economic-Benefits-of-Current-Deregulatory-Efforts.pdf*). This may shelter incumbent contractors and stifle competition, reducing startup activity and job formation.

The RFO rules seek to increase participation in agency competitions and the resilience of the Federal supplier base, which includes commercial entities, small businesses, manufacturers, and nontraditional suppliers. The RFO will achieve this outcome by removing regulatory mandates that are not rooted in statute or essential to sound procurement, promoting greater reliance on practices that reduce transaction costs, and improving the quality of communications with offerors and potential offerors. Access to a broader range of solutions in a more dynamic marketplace will drive better return for each taxpayer dollar spent and increase taxpayer confidence in the Federal acquisition system.

The Government has conducted a regulatory impact analysis (RIA) for the RFO rulemaking inclusive of this proposed rule for FAR parts 6, 7, 10, 18, 26, 37 and 41. The RIA includes a discussion of the anticipated effects of the rulemakings as follows:

1. FAR part 6. This proposed rule simplifies and streamlines competition requirements and policies without changing fundamental requirements. The consolidation of content and elimination of redundant text will reduce the time contracting officers spend navigating regulations. For example, clearly stating where a justification and approval is required for other than full and open competition aids in clarity for the field. Additionally, removing numerous duplicative and nonstatutory ''application'' paragraphs not only reduces regulatory footprint, it lifts potentially unintended constraints the field may have read into such nonexhaustive examples. The rewrite makes core statutory competition requirement policies clear while freeing contracting officers and other acquisition professionals to exercise their judgment to fulfill mission requirements.

Benefits to the Government include reduced administrative burden through clearer, more concise regulations; potentially faster processing of competition determinations; and reduced risk of procedural errors. Changes are primarily internal to the Government, but industry may experience ancillary benefits associated with Government process improvements (*e.g.,* increased shared understanding through plain language adjustments, faster processing with improved clarity).

2. FAR part 7. This proposed rule significantly revises FAR part 7 to stress the importance of tailored acquisition planning that is appropriate for the complexity and circumstances of each procurement. The revisions clarify that acquisition planning is a comprehensive process, not merely the creation of a formal document. The revisions focus on achieving key outcomes like using commercial products/services, promoting full and open competition, selecting the right contract type, and utilizing existing contracts. Specific contents of written acquisition plans are moved to a companion guide. The proposed rule stresses that heads of contracting agencies must establish streamlined planning thresholds and criteria, distinguishing planning for task orders and delivery orders (a faster process) from new contract awards, establishing high-risk contract criteria and ensuring small business opportunities. The distinction between planning for task orders and delivery orders versus new contracts will improve efficiency by aligning planning efforts with acquisition complexity. Additionally, the proposed rule integrates market research as a fundamental component of planning. See section II. C. of the preamble for additional information.

Consolidation and bundling. The rewrite unifies previously distinct procedures for consolidation, bundling, and substantial bundling into a streamlined process. This unified approach offers several key benefits, including simplified training, reduced processing time, and standardized analysis, determination, and notification requirements. This not only reduces the overall regulatory footprint, it eliminates sources of confusion that can obfuscate efficiency and compliance.

Market research integration. Moving market research from Part 10 to Part 7 recognizes it as integral to acquisition planning, reducing duplicative efforts and improving acquisition outcomes. The proposed FAR 7.201(f) requires agencies to procure commercial products and commercial services to the maximum extent practicable. This refocus into commercial buying should result in improved outcomes including potential savings benefitting the American people.

Contractor versus Government Performance, OMB Circular A–76. Since fiscal year 2008, a continuous congressional moratorium, enacted through various appropriations acts, has prohibited executive agencies from initiating new public-private competitions under OMB Circular A–76. This statutory prohibition prevents the use of taxpayer funds to competitively convert civilian employee positions into jobs performed by private contractors. Based on this statutory hold, Contractor Versus Government Performance and its underlying sections have been removed from the FAR, including FAR clauses 52.207–1, 52.207–2, and 52.207–3. Removal of these clauses eliminates contractor reporting requirements for hiring displaced Federal employees, reducing administrative burden on both contractors and Government personnel because of the statutory hold.

These changes are expected to reduce acquisition lead times and improve the quality of acquisition planning without imposing additional costs.

3. FAR part 10. The relocation of market research content to FAR Part 7 has no independent impact. See FAR Part 7 discussion above.

4. FAR part 18. The relocation of emergency acquisition content to FAR Part 26 and a web resource has no independent impact. See FAR Part 26 discussion below.

5. FAR part 26. This rule consolidates emergency acquisition flexibilities with other socioeconomic programs, creating a more logical organization. The significant reduction in regulatory text while maintaining all requirements demonstrates the efficiency gains possible through elimination of regulatory duplication.

Emergency acquisitions. Replacing static regulatory text with a dynamic URL for emergency procurement flexibilities ensures contracting officers have access to current authorities without waiting for regulatory updates. This change is particularly beneficial during emergency responses when speed is critical.

Elimination of nonstatutory flowdowns. Removing the flowdown requirement from FAR 52.226–6 reduces contractor compliance burden without affecting statutory obligations. See Section II.F.2. of the preamble for additional information. These changes reduce administrative burden while maintaining all statutory protections and requirements.

6. FAR part 37. The reorganization of service contracting policies improves accessibility and reduces confusion. Consolidating performance-based acquisition into a single subpart

eliminates redundant text and the need to cross-reference multiple sections. Additionally, moving inherently governmental function details from part 7 to part 37 creates a logical home for this service-specific requirement.

Benefits to the Government include clear, but more flexible, language implementing performance based acquisition in ways that are less prescriptive, yet better facilitate contracts focused on mission outcomes. Additionally, the general improvements in structural clarity and simplicity should aid in reducing training time and improving compliance for the contracting workforce. While the focus of changes is primarily internal to the Government, industry may experience ancillary benefits associated with Government process improvements (*e.g.,* increased shared understanding through plain language adjustments, faster processing with improved clarity).

7. FAR part 41. The part has been revised to more directly route most agencies to GSA for utility procurements. This text at the outset of the part is anticipated to reduce confusion and streamline the acquisition process, while still including useful policies and procedures for agencies such as DoD and DoE, which possesses unique statutory authorities for utility acquisition. Other changes include plain language revisions to improve readability without changing requirements. FAR 52.241–13 has been revised and streamlined to better align with common practice and address general compliance with utility cooperative terms, rather than focusing solely on capital credits.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Executive Order 14192

This rule is subject to E.O. 14192, Unleashing Prosperity Through Deregulation. This proposed rule, if finalized as proposed, is anticipated to be an E.O. 14192 deregulatory action. See discussion in the ''Expected Impact of the Rule'' section of this preamble.

VII. Regulatory Flexibility Act

This proposed rule, if finalized, may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. However, an Initial Regulatory Flexibility Analysis (IRFA) has been performed and is as follows:

1. Reasons for the action.

Executive Order (E.O.) 14275, Restoring Common Sense to Federal Procurement, directs the elimination of excessive acquisition regulations to stop the inefficient use of American taxpayer dollars. The E.O. directs the first comprehensive end-to-end overhaul of the FAR in its 40-year history. The E.O. establishes the policy that the FAR should ''contain only provisions that are required by statute or that are otherwise necessary to support simplicity and usability, strengthen the efficacy of the procurement system, or protect economic or national security interests.'' In response to E.O. 14275, the Office of Management and Budget issued memorandum M–25–26, Overhauling the Federal Acquisition Regulation. The Memo directed the FAR Council to complete a ''revolutionary overhaul'' of the FAR. Therefore, the FAR Council is issuing twelve proposed rules that collectively will streamline the FAR in its entirety.

2. Objectives of, and legal basis for, the rule.

The revolutionary FAR overhaul (RFO) rewrite represents a paradigm shift in Federal acquisition. It emphasizes streamlining, clarity, and accessibility, while ensuring that the regulation focuses only on statutory mandates and foundational procurement principles. The RFO is designed to simplify compliance for contracting professionals, improve acquisition speed and agility, and reinforce mission outcomes over process formalities.

The basis for the RFO is E.O. 14275. The authority for promulgation of the FAR is 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

3. Description of and an estimate of the number of small entities to which the rule will apply.

All small entities who want to contract with the Federal Government will have to familiarize themselves with the reorganized, streamlined, and revised FAR, including the content of this rulemaking. As of January 2026, there are 401,196 entities registered in the System for Award Management that were small for at least one North American Industry Classification System code they had selected.

This proposed rule may have a positive impact on small entities by simplifying and streamlining acquisition regulations.

4. Description of projected reporting, recordkeeping, and other compliance requirements of the rule.

This proposed rule does not create any new reporting or recordkeeping, or other compliance requirements. Instead, this proposed rule will remove the following existing reporting requirements:

- Contractors will no longer be required to provide the contracting officer with the names of personnel who were adversely affected or separated from Government employment as a result of the contract award; and subsequently hired by the contractor to perform under the contract within 90 days after contract performance began.

For more information about the changes to the reporting requirements, see section VIII of the preamble.

5. Relevant Federal rules which may duplicate, overlap, or conflict with the rule.

The proposed rule, if finalized, would not duplicate, overlap, or conflict with other Federal rules.

6. Description of any significant alternatives to the rule which accomplish the stated objectives of applicable statutes, and which minimize any significant economic impact of the rule on small entities.

There are no significant alternatives that would minimize the impact of the rule on small entities.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. The FAR Council invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

The FAR Council will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite ''5 U.S.C. 610 (FAR Case 2026–002)'' in correspondence.

VIII. Paperwork Reduction Act

This rule includes information collections under the Paperwork Reduction Act (44 U.S.C. 3501–3521). Following are the specific collections associated with each FAR part in this rule as previously approved by OMB followed by how each collection would be affected by the proposed rule. If a FAR part is not listed below, then there are no information collections associated with the part.

A. FAR Part 7

OMB Control No. 9000–0082, Federal Acquisition Regulation Part 7 Requirements. The changes under this proposed rule, if finalized, would revise this information collection and the paperwork burden previously approved by OMB. The public reporting burden

for this collection of information will be revised to reflect the removal of the requirements under the clause at FAR 52.207–3, Right of First Refusal of Employment. The revised annual reporting burden is estimated as follows:

Respondents: 14,500.
Total Annual Responses: 14,500.
Total Burden Hours: 14,500.

B. FAR Part 26

OMB Control No. 9000–0207, Federal Acquisition Regulation (FAR) Part 26 Requirements; FAR Section affected: 52.226–7. The changes under this proposed rule, if finalized, would not affect the information collection or the paperwork burden previously approved by OMB. The collection would remain unchanged.

C. FAR Part 37

OMB Control No. 9000–0152, Service Contracting; FAR Section Affected: 52.237–10. The changes under this proposed rule, if finalized, would not affect the information collection or the paperwork burden previously approved by OMB. The collection would remain unchanged.

D. Comments Regarding Paperwork Burden.

The FAR Council will publish a separate first notice in accordance with the Paperwork Reduction Act seeking comments on the changes to these collections of information.

IX. Severability

If any portion (*e.g.,* section, clause, sentence) of this rule is held to be invalid or unenforceable facially, or as applied to any entity or circumstance, it shall be severable from the remainder of this rule, and shall not affect the remainder thereof, or its application to entities not similarly situated or to other dissimilar circumstances. The various portions of this rule are independent and serve distinct purposes. Even if one aspect were rendered invalid, the other benefits of the rule would still be applicable.

List of Subjects in 48 CFR Parts 6, 7, 10, 18, 26, 37, 41, and 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, OFPP, DoD, GSA, and NASA propose amending 48 CFR parts 6, 7, 10, 18, 26, 37, 41, and 52 as set forth below:

■ 1. Revise parts 6 and 7 to read as follows:

PART 6—COMPETITION REQUIREMENTS

Sec.
6.001 Applicability.
6.002 Limitations.
6.003 Advocates for competition.

Subpart 6.1—Presolicitation

6.101 Full and open competition.
6.102 Full and open competition after excluding sources.
6.102–1 Establishing or maintaining alternative sources.
6.102–2 Set-asides for small business concerns.
6.102–3 Set-asides for local firms during a major disaster or emergency.
6.103 Other than full and open competition.
6.103–1 Only one responsible source and no other supplies or services will satisfy agency requirements.
6.103–2 Unusual and compelling urgency.
6.103–3 Industrial mobilization; engineering, developmental, or research capability; or expert services.
6.103–4 International agreement.
6.103–5 Authorized or required by statute.
6.103–6 National security.
6.103–7 Public interest.
6.104 Justification and approval.
6.104–1 Justification content.
6.104–2 Approval of justification.

Subpart 6.2—Postaward

6.201 Availability of the justification.

Authority: 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

6.001 Applicability.

This part applies to all acquisitions except—

(a) Contracts awarded using simplified acquisition procedures of subpart 12.201–1 and part 13;

(b) Contracts awarded using contracting procedures (other than those addressed in this part) that are expressly authorized by statute;

(c) Contract modifications that are within the scope of the contract, including exercising priced options that were evaluated as part of the original competition (see part 17);

(d) Orders placed under requirements contracts or definite-quantity contracts;

(e) Orders placed under indefinite-quantity contracts that were entered into according to this part when—

(1) The contract was awarded under 6.101 or 6.102, and the order was placed according to the procedures in subpart 16.6; or

(2) The contract was awarded under 6.103, and the justification and approval (J&A), if required, adequately covers the requirements contained in the order.

6.002 Limitations.

Agencies must not contract for supplies or services from another agency to avoid the requirements of this part.

6.003 Advocates for competition.

(a) 41 U.S.C. 1705 requires the head of each executive agency to designate and resource an advocate for competition for the agency and for each contracting activity of the agency.

(b) The advocate promotes full and open competition, promotes the acquisition of commercial products and services, and challenges barriers to acquisition. The advocate reports actions taken to increase competition to the senior procurement executive (SPE) and chief acquisition officer.

(c) See 41 U.S.C. 1705 for appointment requirements and specific duties of the advocates for competition.

Subpart 6.1—Presolicitation

6.101 Full and open competition.

(a) Except as authorized by 6.102 and 6.103, obtain full and open competition by using competitive procedures to solicit offers and award Government contracts (see 10 U.S.C. 3201 and 41 U.S.C. 3301).

(b) Use the competitive procedure, or combination of procedures, best suited to efficiently fulfill the Government's requirements. Competitive procedures include sealed bids, competitive proposals, and other procedures explicitly authorized by statute.

(1) *Sealed bids.* For sealed bidding procedures, see part 14. Use sealed bids only when the contracting officer has found that all of the following apply:

(i) Time permits the solicitation, submission and evaluation of sealed bids.

(ii) Award will be made on the basis of price and other price-related factors.

(iii) Negotiations with bidders are unnecessary.

(iv) Contracting officers reasonably expect to receive more than one sealed bid.

(2) *Competitive proposals.* For competitive proposal procedures, see part 15.

(3) *Other competitive procedures.* The following procedures are also considered competitive procedures (see 41 U.S.C. 152):

(i) Selection of sources for architect-engineer contracts according to the provisions of 40 U.S.C. 1102 *et seq.*

(ii) Competitive selection of basic and applied research, as well as that part of development not related to developing a specific system or hardware procurement, if award results from—

(A) Proposals in response to a general solicitation or broad agency announcement (see 35.102); and

(B) A peer review or scientific review of such proposals.

(iii) Use of procedures established by the Administrator of General Services for the multiple award schedule program of GSA.

6.102 Full and open competition after excluding sources.

(a) Agencies may contract by providing for full and open competition after excluding one or more sources under authorities specified in this section. See 10 U.S.C. 3203 and 41 U.S.C. 3303.

(b) Acquisitions made pursuant to this section require use of the competitive procedures outlined in 6.101(b).

(c) Acquisitions pursuant to this section do not require J&As.

6.102–1 Establishing or maintaining alternative sources.

(a) Agencies may exclude a particular source from a contract action to establish or maintain an alternative source of supply or service if the agency head determines that to do so would—

(1) Increase or maintain competition and likely result in reduced overall costs for the acquisition, or anticipated acquisition of the supplies or services;

(2) Serve the interests of national defense to have a facility (or a producer, manufacturer, or other supplier) available for furnishing the supplies or services in case of a national emergency or industrial mobilization;

(3) Serve the interests of national defense by establishing or maintaining an essential engineering, research, or development capability provided by an educational or other nonprofit institution or a federally funded research and development center;

(4) Ensure the continuous availability of a reliable source of supplies or services;

(5) Satisfy projected needs based on a history of high demand for the supplies or services; or

(6) Satisfy a critical need for medical, safety, or emergency supplies.

(b)(1) Support every proposed contract action under the authority of paragraph (a) of this section by a determination and findings (D&F) (see subpart 1.5) signed by the head of the agency or designee. This D&F must not be made on a class basis.

(2) Technical and requirements personnel are responsible for providing all necessary data to support their recommendation to exclude a particular source.

(3) When the authority in (a)(1) of this section is cited, the findings must include a description of the estimated reduction in overall costs and how the estimate was derived.

6.102–2 Set-asides for small business concerns.

Contracting officers may set aside acquisitions for small business concerns (see 19.104). This authority also includes—

(a) Contract actions conducted under the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs.

(b) Contract actions set aside under the following small business socioeconomic programs:

(1) Historically Underutilized Business Zone (HUBZone) Program (see 19.105).

(2) Service-Disabled Veteran-Owned Small Business (SDVOSB) Program (see 19.106).

(3) Women-Owned Small Business (WOSB) or Economically Disadvantaged WOSB eligible under the WOSB Program (see 19.107).

(4) 8(a) Program (see 19.108).

6.102–3 Set-asides for local firms during a major disaster or emergency.

Contracting officers may set aside solicitations for offerors residing or doing business primarily in the area affected by a major disaster or emergency (see subpart 26.1).

6.103 Other than full and open competition.

(a) Agencies may contract without providing for full and open competition under authorities specified in this section (see 10 U.S.C. 3204 for DoD, United States Coast Guard (USCG), and NASA and 41 U.S.C. 3304 for other civilian agencies).

(b) Contracting without providing for full and open competition must not be justified on the basis of—

(1) A lack of planning by the requiring activity; or

(2) Concerns related to the amount of funds available to the agency or activity for acquisition.

6.103–1 Only one responsible source and no other supplies or services will satisfy agency requirements.

(a) *Authority.* 10 U.S.C. 3204(a)(1) or 41 U.S.C. 3304(a)(1).

(b) *One responsible source.* Agencies may contract without providing for full and open competition when the supplies or services required by the agency are available from only one responsible source and no other type of supplies or services will satisfy agency requirements. For DoD, NASA, and USCG, this authority extends to situations where only a limited number of responsible sources can satisfy agency requirements.

(c) *Application.* Supplies and services may be deemed as available from only one source under this authority under the following circumstances, including but not limited to:

(1) *Unsolicited research proposals.*

(i) When an unsolicited research proposal—

(A) Demonstrates a unique and innovative concept;

(B) Provides an offering not otherwise available to the Federal Government; and

(C) Does not resemble the substance of any pending competitive acquisition.

(ii) For DoD, NASA, and USCG, this authority extends to unsolicited research proposals demonstrating unique capabilities to provide services.

(iii) Unsolicited proposals that do not meet these criteria, including those for non-research activities, may still be considered for a sole-source award if justified using other rationale.

(2) *Follow-on contracts.* When awarding a follow-on contract for the continued development or production of a major system or highly specialized equipment and, for DoD, NASA, and USCG, for the continued provision of highly specialized services, and award to any other source would result in—

(i) Substantial duplication of cost to the Government that is not expected to be recovered through competition; or

(ii) Unacceptable delays in fulfilling the agency's requirements.

(3) *Agency standardization program.* When the agency head has determined in accordance with the agency's standardization program that only specified makes and models of technical equipment and parts will satisfy the agency's needs for additional units or replacement items, and only one source is available.

(d) *Application for brand-name descriptions.*

(1) Restricting consideration to an item peculiar to one manufacturer (*e.g.,* a particular brand-name, product, or a feature of a product that is peculiar to one manufacturer) prevents full and open competition regardless of the number of sources solicited. Except as authorized at 6.103–5(d), brand-name specifications must not be used unless the particular brand-name, product, or feature is essential to the Government's requirements and market research indicates other companies' similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet, the agency's needs.

(2)(i) Brand name specifications require a J&A as described in 6.104, modified to show the brand name justification.

(ii) If only a portion of the acquisition is for an item peculiar to one

manufacturer, the J&A should state it is covering only the portion of the acquisition, and the approval level requirements will apply only to that portion.

(iii) The approved brand-name justification must be posted along with the solicitation (see 5.201 and 12.102).

(3) The requirements at paragraphs (d)(1) through (d)(2) do not apply to ''brand name or equal'' descriptions.

(e) *Limitations.* Agencies must publish the notices required by 5.101 and 12.202 and ensure that any bids, proposals, quotations, or capability statements received in response to that notice have been considered.

(f) *Justification.* Contracts using this authority require a J&A as described in 6.104.

6.103–2 Unusual and compelling urgency.

(a) *Authority.* 10 U.S.C. 3204(a)(2) or 41 U.S.C. 3304(a)(2).

(b) *Urgency.* Agencies may contract without providing for full and open competition when the agency's need for the supplies or services is of such an unusual and compelling urgency that the Government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals.

(c) *Period of performance.* The total period of performance of a contract greater than the simplified acquisition threshold awarded or modified using this authority—

(1) May not exceed the time necessary—

(i) To meet the unusual and compelling requirements of the work to be performed under the contract; and

(ii) For the agency to enter into another contract for the required goods and services through competitive procedures; and

(2) May not exceed one year, including all options, unless the head of the agency determines that exceptional circumstances apply. This determination—

(i) Is separate from the J&A for the use of the unusual and compelling urgency authority and must be documented in the contract file; and

(ii) Does not cover any subsequent modification that further extends the period of performance, except for options included in the original determination. Such extensions must be approved at the same level as the original determination.

(d) *Limitations.* Although unusual and compelling urgency considerations may justify other than full and open competition, agencies must still ensure offers are solicited from as many potential sources as is practicable under the circumstances.

(e) *Justification.* Contracts using this authority require a J&A as described in 6.104.

(f) *Documentation after award.* The J&A for the use of this authority, as well as the determination described in paragraph (c)(2) of this section, may be made after contract award when making the determination before award would unreasonably delay the acquisition.

6.103–3 Industrial mobilization; engineering, developmental, or research capability; or expert services.

(a) *Authority.* 10 U.S.C. 3204(a)(3) or 41 U.S.C. 3304(a)(3).

(b) *Application.* Agencies may contract without providing for full and open competition when it is necessary to award the contract to a particular source or sources in order—

(1) To maintain a facility, producer, manufacturer, or other supplier available for furnishing supplies or services in case of a national emergency or to achieve industrial mobilization;

(2) To establish or maintain an essential engineering, research, or development capability provided by an educational or other nonprofit institution or a federally funded research and development center; or

(3) To acquire the services of an expert or neutral person for use in any current or anticipated—

(i) Litigation or dispute; or

(ii) Alternative dispute resolution or negotiated rulemaking processes.

(c) *Justification.* Contracts using this authority require a J&A as described in 6.104.

6.103–4 International agreement.

(a) *Authority.* 10 U.S.C. 3204(a)(4) or 41 U.S.C. 3304(a)(4).

(b) *International agreement.* Agencies may contract without providing for full and open competition when precluded by the—

(1) Terms of an international agreement or a treaty between the United States and a foreign government or international organization; or

(2) The written directions of a foreign government reimbursing the agency for the cost of acquiring the supplies or services for such a government.

(c) *Justification.* Except for contracts awarded by DoD, NASA, and USCG, contracts using this authority require a J&A described in 6.104.

6.103–5 Authorized or required by statute.

(a) *Authority.* 10 U.S.C. 3204(a)(5) or 41 U.S.C. 3304(a)(5).

(b) *Authorized by statute.* Agencies may contract without providing for full and open competition when a statute expressly authorizes, but does not require, that the acquisition be made through another agency or from a specified source. Examples of such authorities include, but are not limited to, sole source awards under the following small business programs:

(1) HUBZone Program (see 19.105).

(2) SDVOSB Program(see 19.106).

(3) WOSB Program (see 19.107).

(4) 8(a) Program (see 19.108).

(5) SBIR or STTR Program follow-on Phase II.

(6) SBIR or STTR Program Phase III.

(c) *Required by statute.* Agencies may contract without providing for full and open competition when a statute expressly requires the acquisition be made through another agency or from a specified source. Examples of such authorities include, but are not limited to awards to—

(1) Federal Prison Industries, Inc. (see subpart 8.3);

(2) AbilityOne participating nonprofit agencies (see subpart 8.2); or

(3) Government Publishing Office (see subpart 8.5).

(d) *Brand-name commercial product for authorized resale.* Agencies may contract without providing for full and open competition when the agency's need is for a brand-name commercial product for authorized resale (*e.g.,* commercial products for resale through commissaries). This authority does not include other uses of brand name descriptions that generally preclude full and open competition and must be addressed in accordance with 6.103–1(d).

(e) *Limitations.* (1) Do not use this authority when a provision of law requires an agency to award a new contract to a specified non-Federal Government entity unless the provision of law specifically—

(i) Identifies the entity involved; and

(ii) States that award must be made to that entity despite the merit-based selection procedures in 10 U.S.C. 3201(e) (for DoD, NASA, and USCG) or 41 U.S.C. 3105 (for other civilian agencies).

(2) This limitation does not apply—

(i) When the work provided for in the contract continues the work performed by the specified entity under a preceding contract; or

(ii) To any contract requiring the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an executive agency and to report on those matters to the Congress or any agency of the Federal Government.

(f) *Justification.* Contracting officers must prepare a J&A, as described in 6.104, for contracts awarded under the

authority of this section, except those awarded under the authorities at—

(1) Paragraph (c) of this section;

(2) Paragraph (d) of this section; and

(3) Paragraph (b) of this section, if statute specifies that such awards may be made without justification. Example of such statutory exceptions include—

(i) SBIR or STTR Program Phase III awards (see 15 U.S.C. 638(r)(4)(B)); and

(ii) 8(a) awards under $30 million (section 811 of Pub. L. 111–84, 41 U.S.C. 3304 note).

6.103–6 National security.

(a) *Authority.* 10 U.S.C. 3204(a)(6) or 41 U.S.C. 3304(a)(6).

(b) *National security.* Full and open competition is not required when disclosing the agency's needs would compromise national security unless the agency can limit the number of sources from which it solicits bids or proposals.

(c) *Limitations.* Although national security considerations may justify other than full and open competition, agencies must still—

(1) Publish the notices required by 5.101 and 12.202 and ensure that any bids, proposals, quotations, or capability statements received in response to that notice have been considered.

(2) Ensure offers are solicited from as many potential sources as is practicable under the circumstances.

(d) *Justification.* Contracts using this authority require a J&A as described in 6.104.

6.103–7 Public interest.

(a) *Authority.* 10 U.S.C. 3204(a)(7) or 41 U.S.C. 3304(a)(7).

(b) *Public interest.* Full and open competition is not required when the agency head determines it is not in the public interest for that particular acquisition.

(c) *Limitations.* (1) The head of the agency must make a written determination to use this authority in accordance with subpart 1.5. The authority may not be delegated and the determination cannot be on a class basis.

(2) Agencies must notify Congress, in writing, of such determination not fewer than 30 days before awarding the contract.

(d) *Justification.* Contracts using this authority do not require a J&A as described in 6.104.

6.104 Justification and approval.

(a) A J&A must support procedures under 6.103, except as outlined at 6.103–5(f) and 6.103–7(d). Agencies must obtain required J&As, prior to commencing negotiations for a sole source contract, commencing negotiations for a contract resulting from an unsolicited proposal, or awarding any other contract without providing for full and open competition.

(b) Contracting officers require the support of the broader acquisition team when making decisions regarding competition. Technical and requirements personnel are responsible for providing, and certifying as accurate and complete, necessary data to support their recommendation for other than full and open competition.

(c) Justifications may be on an individual or class basis.

6.104–1 Justification content.

(a) At a minimum, each justification must include the following information; however, see paragraph (b) for sole-source 8(a) contracts over $30 million:

(1) Identification of the agency and the contracting activity, and specific identification of the document as a ''Justification for other than full and open competition.''

(2) Brief summary of the action being approved.

(3) A description of the supplies or services required to meet the agency's needs (including the estimated value).

(4) An identification of the statutory authority permitting other than full and open competition.

(5) A demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires using the authority cited.

(6) A description of efforts to ensure that offers are solicited from as many potential sources as practicable, including whether a notice was or will be publicized as required by 5.101 or 12.202 and, if not, which exception applies. Presolicitation notice requirements do not apply to acquisitions under the authorities at 6.103–2, 6.103–3, 6.103–4, 6.103–5, and 6.103–7.

(7) A determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable.

(8) The market research conducted (see subpart 7.2) and the results or a statement of the reason market research was not conducted.

(9) Any other facts supporting using other than full and open competition, such as:

(i) When 6.103–1 is cited for follow-on acquisitions as described in 6.103–1(c)(2), an estimate of the cost to the Government that would be duplicated and how the estimate was derived.

(ii) When 6.103–2 is cited, data, estimated cost, or other rationale as to whether and how much the Government would be harmed.

(10) A listing of the sources, if any, that expressed an interest in the acquisition in writing.

(11) A statement of the actions, if any, the agency may take to remove or overcome any barriers to competition before any subsequent acquisition for the supplies or services required.

(12) Contracting officer certification that the justification is accurate and complete to the best of the contracting officer's knowledge and belief.

(b) For sole-source 8(a) contracts over $30 million, the justification must include, at a minimum, the contents described at paragraphs (a)(3), (a)(4), and (a)(7) of this section. It should also include a determination that using a sole-source contract is in the best interest of the agency concerned and any other matters specified by agency procedures.

6.104–2 Approval of justification.

(a) The justification for other than full and open competition must be approved in writing. Officials at a higher authority level may approve lower dollar justifications. For example, the SPE as well as the head of the contracting activity (HCA) may approve a $60 million justification. Approval levels are as follows:

TABLE 6–1—APPROVAL AUTHORITIES FOR OTHER THAN FULL AND OPEN COMPETITION

Value (including options)	Approval authority
(1) $900,000 or below. ($10,000,000 or below for DoD, NASA, and USCG.).	Contracting officer. Accomplished by certification required at 6.104–1(a)(12).
(2) >$900,000–$20,000,000. (>$10,000,000–$100,000,000 for DoD, NASA, and USCG.).	Advocate for competition for the contracting activity. Not delegable.
(3) >$20,000,000–$90,000,000. (>$100,000,000–$500,000,000 for DoD, NASA, and USCG.).	HCA. May be delegated to a member of the armed services at the general or flag officer level or a civilian in a grade above the GS–15 (or equivalent) level.

TABLE 6–1—APPROVAL AUTHORITIES FOR OTHER THAN FULL AND OPEN COMPETITION—Continued

Value (including options)	Approval authority
(4) >$90,000,000. (>$500,000,000 for DoD, NASA, and USCG.)	SPE. Not delegable, except in the case of the Under Secretary of Defense for Acquisition and Sustainment, acting as the SPE for the DoD.

(b) A class justification for other than full and open competition must be approved in writing in accordance with agency procedures. The estimated total value of the class will determine the approval level.

(c) A justification must include the estimated dollar value of all options to determine the approval level.

Subpart 6.2—Postaward

6.201 Availability of the justification.

(a) Make the approved justification publicly available within 14 days after contract award, except—

(1) Justifications under 6.103–2, which must be posted within 30 days after contract award; and

(2) Justifications for brand-name descriptions that were posted with the solicitation under the authority at 6.103–1(d), which do not need to be re-posted after award.

(b) Make the justifications publicly available—

(1) At the Government Point of Entry (GPE);

(2) On the website of the agency, which may provide access to the justifications by linking to the GPE; and

(3) For a minimum of 30 days.

(c) Carefully screen all justifications for contractor proprietary data and remove such data, and such references and citations as are necessary to protect the proprietary data, before making the justifications available for public inspection. Use the exemptions to disclosure of information contained in the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the prohibitions against disclosure in part 24 to determine whether the justification, or portions of it, are exempt from posting.

(d) The requirements of paragraphs (a) and (b) do not apply if posting the justification would compromise national security or create other security risks.

PART 7—ACQUISITION PLANNING

Sec.

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Subpart 7.1—Acquisition Plans

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7.000 Scope of part.

This part provides policies and procedures for—

(a) Acquisition planning and developing acquisition plans;

(b) Determining whether to use commercial or Government resources to acquire supplies or services; and

(c) Deciding whether it is more economical to lease or to purchase equipment.

Subpart 7.1—Acquisition Plans

7.101 Definitions.

As used in this subpart—

Design-to-cost means a concept that establishes cost elements as management goals to achieve the best balance between life-cycle cost, acceptable performance, and schedule. Under this concept, cost is a design constraint during the design and development phases, and a management discipline throughout the acquisition and operation of the system or equipment.

Life-cycle cost means the total cost to the Government of acquiring, operating, supporting, and (if applicable) disposing of the items being acquired.

Order means an order placed under a—

(1) Federal Supply Schedule contract; or

(2) Task-order contract or delivery-order contract.

Planner means the person or office responsible for developing and maintaining a plan, whether written or not.

7.102 Requirements.

(a) Agencies must perform acquisition planning for all acquisitions. Agencies should establish procedures to determine when a written or oral acquisition plan is required (see 7.103). The record of the acquisition plan must be appropriate for the type of acquisition and document decisions and actions to ensure—

(1) Information is available for making informed decisions at each step in the acquisition process;

(2) There is clear support for all actions taken;

(3) Necessary information is available for reviews or investigations; and

(4) Essential facts are available in case litigation arises.

(b) Acquisition plans must promote and provide for:

(1) Acquisition of commercial products or commercial services, whenever feasible (see 7.201(f)).

(2) Full and open competition (see part 6). When using an exception to full and open competition, obtain competition to the maximum extent practicable for the procurement.

(3) Selection of the appropriate contract type to fulfill the agency's needs (see part 16).

(4) Use of existing contracts, if appropriate, including interagency and intra-agency contracts, to fulfill the requirement, before awarding new contracts (see subparts 8.1 and 17.5).

(c) Planning must integrate the efforts of agency personnel responsible for significant aspects of the acquisition to ensure that the Government meets its needs in the most effective, economical, and timely manner.

(d) A written plan is required for cost reimbursement and other high-risk contracts other than firm-fixed-price contracts. Agencies may require written plans for firm-fixed-price contracts as appropriate.

7.103 Agency-head responsibilities.

(a) The agency head must establish agency acquisition planning criteria and thresholds for when increasingly greater detail and formality in the planning process is required. The agency procedures must—

(1) Create streamlined acquisition planning procedures for using Governmentwide acquisition contracts (GWACs) or multi-agency contracts for requirements that are not complex, including for orders, particularly for repetitive orders;

(2) Create streamlined acquisition planning procedures when an acquisition plan has been developed for a single indefinite delivery indefinite quantity (IDIQ) contract to allow the resulting orders to be covered by and reference the same acquisition plan;

(3) Allow for acquisition planning at the program level that covers multiple procurement actions. Acquisition plans may be on a system basis, individual contract basis, or individual order basis depending on the acquisition;

(4) Consider streamlined acquisition planning procedures for procurements for commercial products, including commercially available off-the-shelf items, and commercial services;

(5) Establish criteria for identifying high-risk contracts;

(6) Identify when design-to-cost and life-cycle-cost techniques will be used; and

(7) Provide procedures to waive planning requirements for acquisitions because of an urgent need.

(b) The agency head or designee are responsible for ensuring:

(1) Market research (see subpart 7.2) is conducted to define requirements and that the statement of work, statement of objectives, or performance work statement closely aligns with needed outcomes and cost estimates.

(2) The principles of this subpart are used, as appropriate, for all acquisitions, whether a written plan is required or not.

(3) Small business opportunities are considered in acquisitions to the maximum extent practicable (see 7.107 and part 19).

(4) No purchase request is started or contract entered into that would result in the performance of an inherently governmental function by a contractor, and that all contracts or orders are adequately managed to ensure effective official control over contract or order performance (see subpart 37.3).

(5) Effective agency responsiveness to disaster and emergencies using the authorities and flexibilities at part 26.

(6) Information security and supply chain security requirements (see part 40) and information and communication technology (ICT) accessibility standards (see part 39) are considered, as appropriate.

(7) Before issuing a solicitation for advisory and assistance services (A&AS) for analyzing and evaluating solicitation proposals, a determination is made that there are insufficient covered personnel within the agency or from another Federal agency with the training and capability to do the analyzing and evaluating (see part 37).

(8) Agency planners on information technology acquisitions comply with the capital planning and investment control requirements in 40 U.S.C. 11312 and OMB Circular A–130.

(9) Acquisition plans and revisions to these plans are reviewed and approved to ensure compliance with FAR requirements.

7.104 General procedures.

(a) Start acquisition planning as soon as an agency need is identified. Early planning can create opportunities to structure the procurement approach in a way that promotes competition and innovation, and considers capabilities of domestic sources.

(b) In developing the plan, the planner must do the following:

(1) Form a team consisting of all those who will be responsible for significant aspects of the acquisition, such as contracting, small business, fiscal, legal, and technical personnel. If contract performance is to be in a designated operational area or supporting a diplomatic or consular mission, the planner must also consider inclusion of the combatant commander or chief of mission, as appropriate.

(2) Review previous plans for similar acquisitions and discuss them with the key personnel involved.

(3) Review and revise the plan at key dates specified in the plan or whenever significant changes occur, and no less often than annually.

(4) If the plan proposes using other than full and open competition when awarding a contract, coordinate the plan with the appropriate advocate for competition.

(5) Coordinate the plan with the appropriate small business specialist from the agency Office of Small and Disadvantaged Business Utilization (OSDBU) or the Office of Small Business Programs when the plan strategy involves consolidation or bundling (see 7.107).

(6) Ensure that a Contracting Officer‘s Representative is nominated, if required, as early as possible in the acquisition process by the requirements official or according to agency procedures.

(7) Consult with requirements and logistics personnel who determine type, quality, quantity, and delivery requirements. Requirements and logistics personnel should consider ways to promote participation by domestic sources to the maximum extent practicable and avoid issuing requirements on an urgent basis or with unrealistic delivery or performance schedules, since it generally restricts competition and increases prices.

(8) Coordinate and reach agreement on the plan with the contracting officer.

(c) The specific content of plans will vary, depending on the nature, circumstances, and stage of the acquisition. In preparing the plan, the planner should follow the agency's implementing procedures and address the elements relevant to the specific procurement to achieve the acquisition objectives (*e.g.,* technical, cost, risks). For additional requirements pertaining to major systems, see subpart 34.1. For additional requirements pertaining to inherently governmental functions, see subpart 37.3.

7.105 Early exchanges with industry.

(a) *General.* Exchanges of information and communication among all interested parties are encouraged and can occur at any time between the identification of a requirement through the receipt of proposals. Interested parties may include potential offerors such as current major subcontractors, end users, Government acquisition and supporting personnel, and others involved in the conduct or outcome of the acquisition. These exchanges can improve both the Government's understanding of industry capabilities and the industry's understanding of the Government's needs. Any exchange of information must be consistent with procurement integrity requirements in part 3, protected in accordance with part 24, and marked in accordance with 40.304.

(b) *Draft requests for proposal (RFPs).* Agencies are encouraged to release draft RFPs and conduct conferences with industry before issuing competitive RFPs.

(c) *Requests for information (RFI).* Agencies are encouraged to release RFIs when the Government does not currently intend to award a contract, but wants to obtain price, delivery, market, or capabilities information for planning purposes.

(1) There is no required format for RFIs.

(2) Responses to RFIs are not offers and cannot be accepted by the Government to form a binding contract.

(3) RFIs must state that—

(i) The Government does not intend to award a contract on the basis of the RFI or otherwise pay for the information requested; and

(ii) Responses will be treated as information only and not as a proposal.

(4) Information received in response to an RFI must be safeguarded adequately from unauthorized disclosure. Contracting officers should mark the information with date and time of receipt and provide the information to designated officials.

(d) *Mission needs and requirements.* General information on an agency's current or anticipated needs and requirements may be disclosed at any time. When information about a proposed acquisition is disclosed to one or more potential offerors and that information is necessary for the preparation of proposals, the information should be made available to the public as soon as practicable, but no later than the next general release of information, in order to avoid creating an unfair competitive advantage.

7.106 Reserved.

7.107 Additional requirements for acquisitions involving consolidation, bundling, or substantial bundling.

7.107–1 General.

(a) Consolidation and bundling may provide substantial benefits to the Government. However, because of the potential impact on small business participation, before conducting an acquisition that consolidates or bundles requirements the agency must—

(1) Conduct market research;

(2) Identify any alternative contracting approaches that would involve a lesser degree of consolidation or bundling (*e.g.,* separate smaller contracts or orders);

(3) Coordinate with the agency's OSDBU or the Office of Small Business Programs;

(4) Identify any negative impact by the acquisition strategy on contracting with small business concerns;

(5) Take steps to include small business concerns in the acquisition strategy; and

(6) Unless excepted in paragraph (b), make a written determination that requirements are necessary and justified for consolidation (15 U.S.C. 657q) or bundling (15 U.S.C. 644(e)).

(b) The requirements of section 7.107 (including 7.107–1 through 7.107–4) do not apply—

(1) To orders placed under single-agency task-order contracts or delivery-order contracts, when the requirement was considered in determining that the consolidation or bundling of the underlying contract was necessary and justified; or

(2) To requirements for which there is a mandatory source (see part 8). This exception does not apply—

(i) When the requiring agency obtains a waiver or an exception according to part 8; or

(ii) When optional acquisitions of supplies and services permitted under part 8 are included.

(c) Agencies must publish the Governmentwide policy regarding contract bundling, including regarding the solicitation of teaming and joint ventures, on their agency's website. (15 U.S.C. 644(q)(2)(A)(ii)).

7.107–2 Policy.

(a) The Senior Procurement Executive (SPE) or Chief Acquisition Officer may determine that consolidation or bundling is necessary and justified if the benefits of that approach would substantially exceed the benefits that would be derived from each of the alternative contracting approaches identified under 7.107–1(a)(2), including benefits that are quantifiable in dollar amounts as well as any other specifically identified benefits.

(b) If a determination is made that consolidation or bundling is necessary and justified, the contracting officer must include the justification in the acquisition strategy documentation and provide it to the Small Business Administration (SBA) upon request.

(c)(1) The agency must quantify and document in its strategy the specific benefits identified through the use of market research and other techniques to explain how their impact would be substantial.

(2) Benefits may include cost savings, price reduction, or, regardless of whether quantifiable in dollar amounts—

(i) Quality improvements that will save time or improve or enhance performance or efficiency;

(ii) Reduction in acquisition cycle times;

(iii) Better terms and conditions; or

(iv) Any other benefit.

(3) Benefits are substantial if quantified in dollar amounts individually, in combination, or in the aggregate if the anticipated financial benefits are equivalent to—

(i) Ten percent of the estimated contract or order value (including options) if the value is $94 million or less; or

(ii) Five percent of the estimated contract or order value (including options) or $9.4 million, whichever is greater, if the value exceeds $94 million.

(4) Benefits that are not quantifiable in dollar amounts must be specifically identified and otherwise quantified to the extent feasible.

(5) In assessing whether cost savings and/or price reduction would be achieved through consolidation or bundling, the agency and SBA must—

(i) Compare the price that has been charged by small businesses for the work that they have performed; or

(ii) Where previous prices are not available, compare the price, based on market research, that could have been or could be charged by small businesses for the work previously performed by other than a small business.

(6) For a consolidated or bundled contract or task or delivery order with a cumulative estimated dollar value (including options) above the substantial bundling thresholds of $8 million or more for the Department of Defense, $6 million or more for the National Aeronautics and Space Administration, the General Services Administration, and the Department of Energy, and $2.5 million or more for all other agencies, the agency must also document in its strategy—

(i) The specific benefits expected to be derived from consolidation or bundling;

(ii) An assessment of the specific barriers to participation by small business concerns as contractors that result from consolidation or bundling;

(iii) Actions designed to maximize small business participation as contractors, including provisions that encourage small business teaming;

(iv) Actions designed to maximize small business participation as subcontractors (including suppliers) at any tier under the contract or order that may be awarded to meet the requirements;

(v) The determination that the anticipated benefits of the proposed consolidated or bundled contract or order justify its use; and

(vi) Alternative strategies that would reduce or minimize the scope of the consolidation or bundling, and the reason for not choosing those alternatives.

(d) Reduction of administrative or personnel costs alone is not enough justification for consolidation or bundling unless the cost savings are expected to be substantial.

(e) When the expected benefits are not substantial but the requirements are critical to the agency's mission success, and the procurement strategy provides for maximum practicable participation by small business, the Deputy Secretary or equivalent (or for DoD the SPE), on

a non-delegable basis, may determine that consolidation or bundling is necessary and justified.

7.107–3 Notifications.

(a) *Notifications to current small business contractors of the agency's intent to consolidate or bundle.*

(1) The contracting officer must notify each small business performing a contract that it intends to consolidate or bundle the requirement at least 30 days before issuing the solicitation for the consolidated or bundled requirement.

(2) The notification must provide the name, phone number and address of the applicable SBA procurement center representative (PCR), or if an SBA PCR is not assigned to the procuring activity, the SBA Office of Government Contracting Area Office serving the area in which the buying activity is located.

(b) *Notification to the public.* The SPE or Chief Acquisition Officer must publish in the GPE—

(1) A notice that the agency has determined consolidation or bundling of contract requirements is necessary and justified (see 7.107–2) no later than 7 days after making the determination; the solicitation may not be publicized prior to 7 days after publication of the notice of the agency determination; and

(2) The determination that consolidation or bundling is necessary and justified with the publication of the solicitation. See 7.107–2 for the required content of the determination.

(c) *Notification to SBA of follow-on consolidated or bundled requirements.* For each follow-on consolidated or bundled requirement, the contracting officer must obtain the following from the requiring activity and notify the SBA PCR no later than 30 days before issuing the solicitation:

(1) The amount of savings and benefits achieved under the prior consolidation or bundling.

(2) Whether such savings and benefits will continue to be realized if the contract remains consolidated or bundled.

(3) Whether such savings and benefits would be greater if the procurement requirements were divided into separate solicitations suitable for awarding to small business concerns.

(4) List of requirements that have been added or deleted for the follow-on.

(d) *Annual notification to the public of the reason for consolidated or bundled requirements.* The agency must publish on its website a list and reason for any consolidated or bundled requirement for which the agency solicited offers or issued an award. The notification must be made annually within 30 days of the agency's data certification regarding the validity and verification of data entered in the Federal Procurement Data System to the Office of Federal Procurement Policy (see part 4).

7.107–4 Solicitation provision.

Insert the provision at 52.207–6, Solicitation of Offers from Small Business Concerns and Small Business Teaming Arrangements or Joint Ventures (Multiple-Award Contracts), in solicitations for multiple-award contracts including those for commercial products and commercial services that exceed the substantial bundling threshold of the agency (see 7.107–2(c)(6)).

7.108 Additional requirements for teleworking.

(a) According to 41 U.S.C. 3306(f), an agency must not discourage a contractor from allowing its employees to telework while performing Government contracts, unless—

(1) The contracting officer has determined that the requirements of the agency, including security requirements, cannot be met if teleworking is permitted;

(2) The basis of the determination is documented in writing; and

(3) The prohibition is specified in the solicitation.

(b) When a teleworking prohibition is stated in a solicitation, the contracting officer will unfavorably evaluate an offer that includes teleworking.

Subpart 7.2—Market Research

7.200 Scope of subpart.

This subpart prescribes minimum requirements for conducting market research, an essential component of acquisition planning, before procuring supplies and services. See section 887 of Public Law 114–92 (41 U.S.C. 1703 note), 41 U.S.C. 3306(a)(1), 41 U.S.C. 3307, and 10 U.S.C. 3453.

7.201 Market research requirements.

(a) Agencies must describe their legitimate needs.

(b) Agencies must conduct market research appropriate to the circumstances before—

(1) Developing new requirements documents;

(2) Soliciting offers for acquisitions with an estimated value over the simplified acquisition threshold; or

(3) Awarding a task or delivery order under an IDIQ contract (*e.g.,* GWACs, MACs) for other than a commercial product or commercial service when the order is over the simplified acquisition threshold.

(c) Agencies should engage in responsible and constructive exchanges with industry (see 7.105). Agencies may use different strategies and methods to gather information, so long as they comply with existing law and regulation and do not provide an unfair competitive advantage to particular firms or violate the procurement integrity requirements (see 3.104).

(d) When conducting market research, agencies must not ask potential sources to submit more than the minimum information necessary to make the determinations required in paragraph (f).

(e) Agencies must document the results of market research in a manner that suits the acquisition's size and complexity. Market research conducted within 18 months before an award is acceptable if the information is still current, accurate, and relevant.

(f) Agencies must procure commercial products and commercial services to the maximum extent practicable. Using the results of market research, agencies will determine, in the following order of priority, whether—

(1) A commercial product or commercial service on an existing governmentwide contract can meet the agency's requirements;

(2) The requirements could be modified so the agency could use an existing governmentwide contract;

(3) A commercial product or commercial service is available from another source;

(4) A commercial product or commercial service could be modified to meet the agency's requirements; or

(5) The requirement can only be satisfied by a nondevelopmental item.

7.202 Clause.

Insert the clause at 52.207–7, Market Research, in solicitations and contracts, other than those for commercial products and commercial services, if the acquisition value exceeds $7.5 million.

Subpart 7.3—Planning for the Purchase of Supplies in Economic Quantities

7.300 [Reserved]

7.301 [Reserved]

7.302 Policy.

Agencies are required by 10 U.S.C. 3242 and 41 U.S.C. 3310 to procure supplies in such quantity as—

(a) Will result in the total cost and unit cost most advantageous to the Government, where practicable; and

(b) Does not exceed the quantity reasonably expected to be required by the agency.

7.303 Solicitation provision.

Insert the provision at 52.207–4, Economic Purchase Quantity—Supplies, in solicitations for supplies other than those for commercial products or commercial services. The provision may not be necessary if the solicitation is for a contract under the General Services Administration's multiple award schedule contract program, or if the contracting officer determines that—

(a) The Government already has the relevant information required by the provision;

(b) Such information is otherwise readily available; or

(c) It is impracticable for the Government to vary its future requirements.

Subpart 7.4—Equipment Acquisition

7.400 Scope of subpart.

This subpart—

(a) Implements section 555 of the FAA (Federal Aviation Administration) Reauthorization Act of 2018 (Pub. L. 115–254);

(b) Provides guidance when acquiring equipment and more than one method of acquisition is available for use; and

(c) Applies to both the initial acquisition of equipment and the renewal or extension of existing equipment leases or rental agreements.

7.401 Acquisition considerations.

(a)(1) Agencies must acquire equipment using the method of acquisition most advantageous to the Government based on a case-by-case analysis of comparative costs and other factors according to this subpart and agency procedures.

(2) The methods of acquisition to be compared in the analysis must include, at a minimum—

(i) Purchase;

(ii) Short-term rental or lease;

(iii) Long-term rental or lease;

(iv) Interagency acquisition (see part 2); and

(v) Agency acquisition agreements, if applicable, with a State or local government.

(b)(1) The factors to be compared in the analysis must include, at a minimum:

(i) Estimated length of the period the equipment is to be used and the extent of use within that period;

(ii) Financial and operating advantages of alternative types and makes of equipment;

(iii) Cumulative rent, lease, or other periodic payments, however described, for the estimated period of use;

(iv) Net purchase price;

(v) Transportation, installation, and storage costs;

(vi) Maintenance, repair, and other service costs; and

(vii) Potential for the equipment to become outdated because of upcoming technological improvements.

(2) The following additional factors should be considered, as appropriate, depending on the type, cost, complexity, and estimated period of use of the equipment:

(i) Availability of purchase options.

(ii) Cancellation, extension, and early return conditions and fees.

(iii) Ability to swap out or exchange equipment.

(iv) Available warranties.

(v) Insurance, environmental, or licensing requirements.

(vi) Potential for use of the equipment by other agencies after its use by the acquiring agency is ended.

(vii) Trade-in or salvage value.

(viii) Imputed interest.

(ix) Availability of a servicing capability, especially for highly complex equipment; *e.g.,* can the equipment be serviced by the Government or other sources if it is purchased?

(c) The analysis in paragraph (a) is not required—

(1) When the President has issued an emergency declaration or a major disaster declaration pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*);

(2) In other emergency situations if the agency head makes a determination that obtaining such equipment is necessary to protect human life or property; or

(3) When otherwise authorized by law.

7.402 Acquisition methods.

(a) *Purchase method.*

(1) If the equipment will be used beyond the point in time when cumulative rental or leasing costs exceed the purchase costs, use the purchase method if appropriate.

(2) The mere possibility that future technological advances might make the selected equipment less desirable, alone, is not a reason to rule out the purchase method.

(b) *Rent or lease method.*

(1) The rent or lease method may serve as a short-term measure when the circumstances—

(i) Require immediate use of equipment to meet program or system goals; but

(ii) Do not currently support acquisition by purchase.

(2) If a rent or lease method is selected, the inclusion of an evaluated purchase option is preferable.

(3) Generally, a long-term rental or lease agreement should be avoided unless there is an option to purchase or other favorable terms.

(4) If a rental or lease agreement with option to purchase is used, the contract must state the purchase price or provide a formula that shows how the purchase price will be established at the time the option to purchase is exercised.

7.403 OMB guidance.

For additional OMB guidance, see—

(a) Section 13, Special Guidance for Lease-Purchase Analysis, and paragraph 8.c.(2), Lease-Purchase Analysis, of OMB Circular A–94, Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs, (1992 OMB Circular A–94 at *https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/omb/circulars/a094/a094.html* but use Appendix C from 2025 at *https://bidenwhitehouse.archives.gov/wp-content/uploads/2023/12/CircularA-94AppendixC.pdf*); and

(b) Appendix B, Budgetary Treatment of Lease-Purchases and Leases of Capital Assets, of OMB Circular A–11, Preparation, Submission, and Execution of the Budget, (*https://bidenwhitehouse.archives.gov/wp-content/uploads/2023/12/CircularA-94AppendixC.pdf*).

7.404 Contract clause.

Insert a clause substantially the same as the clause in 52.207–5, Option to Purchase Equipment, in solicitations and contracts, other than those for commercial products and commercial services, involving a rental or lease agreement with option to purchase.

PART 10 [Removed and Reserved]

■ 2. Remove and reserve part 10, consisting of sections 10.000, 10.001, 10.002, and 10.003.

PART 18 [Removed and Reserved]

■ 3. Remove and reserve part 18, consisting of sections 18.000, 18.001, subparts 18.1 and 18.2.

■ 4. Revise parts 26, 37, and 41 to read as follows:

PART 26—EMERGENCY ASSISTANCE AND OTHER SOCIOECONOMIC PROGRAMS

Sec.

Subpart 26.1—Local Area Preference for Disaster Response Contracts

26.101 Definitions.
26.102 Presolicitation.
26.102–1 Policy.
26.102–2 Procedures.
26.102–3 Solicitation provision and contract clauses.

Subpart 26.2—Emergency Acquisition Flexibilities

26.201 Presolicitation.

Subpart 26.3—Indian Incentive Program

26.301 Definitions.
26.302 Presolicitation.
26.302–1 Policy.
26.302–2 Contract clause.
26.303 Postaward.

Subpart 26.4—Historically Black Colleges and Universities and Minority Institutions

26.401 Definitions.
26.402 Presolicitation.
26.402–1 General.
26.402–2 Solicitation provision.

Subpart 26.5—Food Donations to Nonprofit Organizations

26.501 Definitions.
26.502 Presolicitation.
26.502–1 Policy.
26.502–2 Contract clause.

Subpart 26.6—Drug-Free Workplace

26.601 Applicability.
26.602 Definitions.
26.603 Presolicitation.
26.603–1 Contract clause.
26.604 Evaluation and award.
26.604–1 Policy.
26.605 Postaward.
26.605–1 Suspension of payments, contract termination, and debarment and suspension actions.

Subpart 26.7—Texting While Driving

26.701 Presolicitation.
26.701–1 Policy.
26.701–2 Contract clause.

Subpart 26.1—Local Area Preference for Disaster Response Contracts

26.101 Definitions.

As used in this subpart—

Disaster Response Registry means a voluntary registry of contractors who are willing to perform debris removal, distribution of supplies, reconstruction, and other disaster or emergency relief activities established in accordance with 6 U.S.C. 796, Registry of Disaster Response Contractors. The Registry is accessed via *https://www.sam.gov.*

Emergency response contract means a contract with private entities that provide assistance activities in a major disaster or emergency area, such as debris clearance, distribution of supplies, or reconstruction.

Local firm means a private organization, firm, or individual residing or doing business primarily in a major disaster or emergency area.

Major disaster or emergency area means the area included in the official Presidential declaration(s) and any additional areas identified by the DHS. Major disaster declarations and emergency declarations are published in the **Federal Register** and are available at *https://www.fema.gov/disasters/disaster/declarations.*

26.102 Presolicitation.

26.102–1 Policy.

(a) *Local area preference.* When practicable, award emergency response contracts to local firms (see 42 U.S.C. 5150). To support this policy, contracting officers may—

(1) Set aside acquisitions to allow only local firms within a specific geographic area to compete (see 6.102–3); or

(2) Use an evaluation preference.

(b) *Transition of work.*

(1) Agencies may award emergency response contracts before a major disaster or emergency occurs to ensure immediate relief is available. Structure such contracts to support timely transition of work to local firms after a major disaster or emergency area has been established.

(2) Agencies must transition emergency response contracts to local firms after the President declares a major disaster or emergency, unless the head of the agency determines that it is not practicable on an individual or class basis. However, agencies are not required to terminate or renegotiate existing contracts to make the transition.

26.102–2 Procedures.

(a) *Non-local justification requirements.* After the President declares a major disaster or emergency, agencies must justify spending any Federal funds on emergency response contracts not awarded to a local firm. Agencies must document such justification in writing, and contracting officers must keep it in the contract file.

(b) *Area.* A major disaster or emergency area may span counties in several neighboring States. When establishing a geographic area for a local firm set-aside, stay within the declared area(s) but it is not required to include all the counties within the declared areas(s).

(c) *Disaster response registry.* Consult the Disaster Response Registry via *https://www.sam.gov* to determine contractor availability for emergency response activities inside the United States and outlying areas.

26.102–3 Solicitation provision and contract clauses.

(a) Insert the provision at 52.226–3, Disaster or Emergency Area Representation, and fill in the geographic area in paragraph (a), in solicitations involving local area set-asides, including those for commercial products and commercial services.

(b) Insert the clause at 52.226–4, Notice of Disaster or Emergency Area Set-aside, and fill in the geographic area in paragraph (a), in solicitations and contracts involving local area set-asides, including those for commercial products and commercial services.

(c) Insert the clause at 52.226–5, Restrictions on Subcontracting Outside Disaster or Emergency Area, in solicitations and contracts involving local area set-asides, including those for commercial products and commercial services.

Subpart 26.2—Emergency Acquisition Flexibilities

26.201 Presolicitation.

The FAR includes acquisition flexibilities available for emergency acquisitions, in addition to the local area preference in subpart 26.1.

(a) *General flexibilities.* Use the flexibilities included in the FAR to respond quickly for an emergency or urgent need. See the list of FAR flexibilities available at *https://acquisition.gov/emergency-procurement.* The acquisition flexibilities in this subpart are not exempt from the requirements and limitations set forth in part 3, Improper Business Practices and Personal Conflicts of Interest.

(b) *Micro-purchase threshold and simplified acquisition threshold.* The definitions of micro-purchase threshold and simplified acquisition threshold at part 2 describe the circumstances and new thresholds to which they may be raised when, as determined by the head of an executive agency, they are used to—

(1) Support a contingency operation;

(2) Help defend against or recover from cyber, nuclear, biological, chemical, or radiological attack against the United States;

(3) Support a request from the Secretary of State or the Administrator of the United States Agency for International Development to help provide international disaster assistance as described in 22 U.S.C. 2292 *et seq.;*

(4) Support response to an emergency or major disaster, or

(5) Support a humanitarian or peacekeeping operation using a contract to be awarded and performed, or purchase to be made, outside the United States. The simplified acquisition threshold may be changed, but not the micro-purchase threshold.

(c) *Simplified acquisition procedures for certain commercial products and commercial services.* See part 12 for increased thresholds that may be used in acquiring commercial products or

commercial services when the acquisition supports activities described in paragraphs (b)(1) through (b)(4) of this section. These increased thresholds for using simplified acquisition procedures may also be used when the acquisition is treated as a commercial product or commercial service in accordance with paragraph (d) of this section.

(d) *Commercial product or commercial service treatment.* Contracting officers may treat any acquisition of supplies or services as an acquisition of commercial products or commercial services if the head of the agency determines the acquisition is to be used to help defend against or recover from cyber, nuclear, biological, chemical, or radiological attack. (See part 12.)

(e) *Ocean transportation by U.S. flag vessels.* In emergency situations, the provisions of the Cargo Preference Act of 1954 may be waived (see part 47.)

Subpart 26.3—Indian Incentive Program

26.301 Definitions.

As used in this subpart—

Indian means any person who is a member of any Indian tribe, band, group, pueblo, or community that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) (see 25 U.S.C. 1452) and any ''Native'' as defined in the Alaska Native Claims Settlement Act (see 43 U.S.C. 1602).

Indian organization means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C., chapter 17.

Indian-owned economic enterprise means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership constitutes not less than 51 percent of the enterprise.

Indian tribe means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, that is recognized by the Federal Government as eligible for services from BIA (see 25 U.S.C. 1452).

Interested party means a prime contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

26.302 Presolicitation.

26.302–1 Policy.

Agencies may allow an incentive payment to prime contractors equal to 5 percent of the amount paid to a subcontractor that is an Indian organization or Indian-owned economic enterprise (see 25 U.S.C. 1544).

26.302–2 Contract clause.

Contracting officers in civilian agencies may insert the clause at 52.226–1, Utilization of Indian Organizations and Indian-Owned Economic Enterprises, in solicitations and contracts, including those for commercial products (other than commercially available off-the-shelf items) or commercial services, if—

(a) In the opinion of the contracting officer, subcontracting possibilities exist for Indian organizations or Indian-owned economic enterprises; and

(b) Funds are available for any increased costs as described in paragraph (b)(2) of the clause at 52.226–1.

26.303 Postaward.

(a) Contracting officers and prime contractors may rely on the representation of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges its status, or the contracting officer has independent reason to question that status.

(b) Contracting officers must refer challenges to the U.S. Department of the Interior, BIA, Acquisition Management Director (available at *https://www.bia.gov/as-ia/ocfo/acquisitions*). BIA will determine the eligibility and notify the contracting officer.

(c) The contracting officer must notify the prime contractor upon receipt of a challenge.

Subpart 26.4—Historically Black Colleges and Universities and Minority Institutions

26.401 Definitions.

As used in this subpart—

Historically black college or university means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2.

Minority institution means an institution of higher education meeting the requirements of Section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k), including a Hispanic-serving institution of higher education, as defined in Section 502(a) of the Act (20 U.S.C. 1101a).

26.402 Presolicitation.

26.402–1 General.

(a) As established in Executive Order 12928 of September 16, 1994, Promoting Procurement With Small Businesses Owned and Controlled By Socially and Economically Disadvantaged Individuals, Historically Black Colleges and Universities, and Minority Institutions, agencies should promote participation of Historically Black Colleges and Universities and Minority Institutions in Federal procurement.

(b) This subpart does not apply to contracts performed entirely outside the United States and its outlying areas.

26.402–2 Solicitation provision.

Insert the provision at 52.226–2, Historically Black College or University and Minority Institution Representation, in solicitations that exceed the micro-purchase threshold, and that are for research, studies, supplies, or services of the type normally acquired from higher educational institutions, including those for commercial products (other than commercially available off-the-shelf items) and commercial services.

Subpart 26.5—Food Donations to Nonprofit Organizations

26.501 Definitions.

As used in this subpart—

Apparently wholesome food means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

Excess food means food that—

(1) Is not required to meet the needs of the agencies; and

(2) Would otherwise be discarded.

Food-insecure means inconsistent access to sufficient, safe, and nutritious food.

Nonprofit organization means any organization that is—

(1) Described in section 501(c) of the Internal Revenue Code of 1986; and

(2) Exempt from tax under section 501(a) of that Code.

26.502 Presolicitation.

26.502–1 Policy.

(a) The Government encourages agencies and their contractors to donate excess, apparently wholesome food to nonprofit organizations helping food-insecure people in the United States (see 42 U.S.C. 1792).

(b) The following limitations apply:

(1) *Costs.* Agencies may not assume responsibility for the costs and logistics

of collecting, transporting, maintaining the safety of, or distributing excess food donations.

(2) *Liability.* An agency (including an agency that enters into a contract with a contractor) and any contractor making food donations following this policy is exempt from civil and criminal liability to the extent provided under 42 U.S.C. 1791.

26.502–2 Contract clause.

Insert the clause at 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations, in solicitations and contracts greater than $35,000 for providing, serving, or selling food in the United States, other than those for commercial products and commercial services.

Subpart 26.6—Drug-Free Workplace.

26.601 Applicability.

This subpart implements 41 U.S.C. chapter 81, Drug-Free Workplace, and applies to contracts, except those—

(a) At or below the simplified acquisition threshold; however, the requirements of this subpart apply to all contracts of any value awarded to an individual;

(b) For commercial products and commercial services (see part 12);

(c) Performed outside the United States and its outlying areas or any part of a contract performed outside the United States and its outlying areas;

(d) Awarded by law enforcement agencies, if the head of the law enforcement agency involved determines that applying this subpart would be inappropriate in connection with the law enforcement agency's undercover operations; or

(e) Where application would be inconsistent with the international obligations of the United States or with the laws and regulations of a foreign country.

26.602 Definitions.

As used in this subpart—

Controlled substance means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812), and as further defined in regulation at 21 CFR 1308.11–1308.15.

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

Employee means an employee of a contractor directly engaged in performing work under a Government contract. ''Directly engaged'' includes all direct cost employees and any other contractor employee who has other than a minimal impact or involvement in contract performance.

Individual means an offeror or contractor that has no more than one employee including the offeror or contractor.

26.603 Presolicitation.

26.603–1 Contract clause.

Insert the clause at 52.226–7, Drug-Free Workplace, in solicitations and contracts, other than those for commercial products and commercial services, except as provided in 26.601.

26.604 Evaluation and award.

26.604–1 Policy.

(a) Contracting officers may not consider an offeror, other than an individual, a responsible source unless it agrees to provide a drug-free workplace according to the clause at 52.226–7.

(b) Contracting officers may not award a contract of any dollar value to an individual unless that individual agrees to not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing the contract.

26.605 Postaward.

26.605–1 Suspension of payments, contract termination, and debarment and suspension actions.

(a) Contracting officers may suspend contract payments when they determine in writing that there is adequate evidence of any of the causes at paragraph (d) of this section.

(b) Contracting officers may terminate contracts for default when they determine in writing any of the causes at paragraph (d) of this section exist.

(c) When a contracting officer initiates action under paragraph (a) or (b) of this section, they must refer the case to the agency suspending and debarring official (see part 9).

(d) The specific causes for suspension of contract payments, termination of a contract for default, or suspension and debarment are—

(1) The contractor has failed to comply with the requirements of the clause at 52.226–7, Drug-Free Workplace; or

(2) The number of contractor employees convicted of violations of criminal drug statutes occurring in the workplace indicates that the contractor has failed to make a good faith effort to provide a drug-free workplace.

(e) An agency head may waive a suspension of payments, termination of contract, or suspension or debarment of a contractor under this section, if considered necessary to prevent a severe disruption of the agency operation to the detriment of the Government or the general public. The agency head cannot delegate the waiver authority.

Subpart 26.7—Texting While Driving

26.701 Presolicitation.

26.701–1 Policy.

This subpart implements the requirements of the Executive Order (E.O.) 13513, dated October 1, 2009 (74 FR 51225, October 6, 2009), Federal Leadership on Reducing Text Messaging while Driving. Agencies must encourage contractors and subcontractors to adopt and enforce policies that ban text messaging while driving—

(a) Company-owned or rented vehicles or Government-owned vehicles; or

(b) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

26.701–2 Contract clause.

Insert the clause at 52.226–8, Encouraging Contractor Policies to Ban Text Messaging While Driving, in all solicitations and contracts, including those for commercial products and commercial services.

PART 37—SERVICE CONTRACTING

Sec.
37.001 Definition.

Subpart 37.1—Performance-Based Acquisition

37.101 Presolicitation.
37.101–1 Policy.
37.102 Evaluation and award.
37.102–1 Procedures.

Subpart 37.2—Personal Services

37.201 Presolicitation.
37.201–1 Policy.
37.201–2 Characteristics of personal services contracts.
37.202 Postaward.
37.202–1 Avoiding personal services contracts.

Subpart 37.3—Inherently Governmental Functions

37.301 Presolicitation.
37.301–1 Policy.
37.301–2 Specific inherently governmental functions.
37.301–3 Functions that may cross into inherently governmental functions.

37.302 Evaluation and Award.
37.302–1 Policy.
37.303 Postaward.
37.303–1 Contractor support to inherently governmental functions.

Subpart 37.4—Advisory and Assistance Services

37.401 Definition.
37.402 Presolicitation.
37.402–1 Policy.
37.402–2 Prohibitions.
37.402–3 A&AS contracts for the evaluation of proposals.
37.402–4 Exclusions.
37.403 Evaluation and award.
37.403–1 Treatment of former Government employees.
37.403–2 Avoiding A&AS use in evaluation of proposals.
37.404 Postaward.
37.404–1 Performance monitoring in A&AS contracts.

Subpart 37.5—Child Care Services

37.501 Definition.
37.502 Presolicitation.
37.502–1 Policy.

Subpart 37.6—Nonpersonal Health Care Services

37.601 Presolicitation.
37.601–1 Policy.
37.601–2 Procedures.
37.601–3 Contract clause.
37.602 Evaluation and award.
37.602–1 Evidence of insurability.
37.603 Postaward.
37.603–1 Evidence of insurance.

Subpart 37.7—Dismantling, Demolition, or Removal of Improvements

37.701 Presolicitation.
37.701–1 Labor standards.
37.701–2 Bonds or other security.
37.701–3 Payments and title.
37.701–4 Contract clauses.

Subpart 37.8—Other Service Considerations

37.801 Definitions.
37.802 Presolicitation.
37.802–1 Uncompensated overtime.
37.802–2 Services of quasi-military armed forces.
37.802–3 Foreign national severance cost limitations.
37.802–4 Use of private sector temporaries.
37.802–5 Solicitation provisions and contract clauses.
37.803 Evaluation and award.
37.803–1 Evaluating uncompensated overtime.
37.803–2 Funding and term of service contracts.

37.001 Definition.

Service contract, as used in this part, means a contract that directly engages the time and effort of a contractor for the primary purpose of obtaining services rather than furnishing an end item of supply. A service contract may be either a nonpersonal or personal contract. It can also cover services performed by either professional or nonprofessional personnel whether on an individual or organizational basis.

Subpart 37.1—Performance-Based Acquisition

37.101 Presolicitation.

37.101–1 Policy.

When acquiring services, including acquisition of commercial services using the procedures in part 12, agencies must—

(a) Use performance-based acquisition methods, including outcome-focused approaches, to the maximum extent practicable, except for—

(1) Architect-engineer services acquired in accordance with 40 U.S.C. 1101 *et seq.* (see part 36);

(2) Construction (see part 36);

(3) Utility services (see part 41); or

(4) Services that are incidental to supply purchases; and

(b) Use the following order of precedence (Public Law 106–398, section 821(a)):

(1) A firm-fixed price performance-based contract or task order.

(2) A performance-based contract or task order that is not firm-fixed price.

(3) A contract or task order that is not performance-based.

37.102 Evaluation and award.

37.102–1 Procedures.

(a) Performance-based contracts must include a performance work statement (PWS).

(1) The PWS may be prepared by the Government or proposed by an offeror in response to a statement of objectives (SOO) and included in the contract.

(2) The PWS must describe the outcome required rather than ''how'' that outcome is to be achieved or the estimated level of effort anticipated.

(3) The PWS must, to the maximum extent practicable, define the basis by which successful achievement of outcomes will be determined. This basis can be specific performance standards, a performance management framework, or a combination thereof, provided the approach includes clear, specific, and objective terms with measurable outcomes. The approach may be established by the Government or proposed by the offeror.

(b) When an offeror proposes an approach to achieving outcomes in response to a SOO, agencies must—

(1) Evaluate whether the proposed approach meets agency needs;

(2) Identify methods for assessing progress toward, and achievement of, the desired outcomes; and

(3) Incorporate both the accepted approach and assessment methods into the contract.

Subpart 37.2—Personal Services

37.201 Presolicitation.

37.201–1 Policy.

Agencies must not contract for personal services unless specifically authorized by statute (*e.g.,* 5 U.S.C. 3109).

37.201–2 Characteristics of personal services contracts.

(a) A personal services contract exists when the Government supervises or controls contractor employees, or appears to do so, as if they were Government employees. This type of contract circumvents civil service laws that require the Government to competitively hire and appoint its own employees.

(b) The Government exercising relatively continuous supervision and control over multiple contractor personnel is frequently a key indicator of a personal services contract. However, service contracts often involve interaction with contractor employees—such as ordering and reviewing specific work—that do not constitute the type of supervision or control that would convert a contractor employee into a Government employee.

37.202 Postaward.

37.202–1 Avoiding personal services contracts.

When administering contracts, agencies must avoid making contractor personnel appear to be, in effect, Government employees, unless a statute provides otherwise.

Subpart 37.3—Inherently Governmental Functions

37.301 Presolicitation.

37.301–1 Policy.

(a) Agencies must ensure requirements are carefully developed to make certain none of the functions to be performed are inherently governmental functions.

(b) Service contracts require special oversight if the contract work:

(1) Supports an inherently governmental function, including contracts providing recommendations, analyses, reports, or similar work products that can influence government decision-making; or

(2) May approach becoming inherently governmental because of the nature of the function, the manner in which the contractor performs the contract, or the manner in which the Government administers contractor performance (see 37.301–3).

(c) Agency implementation must include procedures requiring a written determination whenever a statement of work (SOW) or SOO (or any modification thereof) is submitted to the contracting officer. This determination must confirm that none of the functions to be performed are inherently governmental. This assessment should emphasize the degree to which conditions and facts restrict the discretionary authority, decision-making responsibility, or accountability of Government officials using contractor services or work products. Disagreements regarding the determination will be resolved according to agency procedures before issuing a solicitation.

37.301–2 Specific inherently governmental functions.

(a) The following is a non-exclusive list of inherently governmental functions or functions which must be treated as such.

(1) Directly conducting criminal investigations.

(2) Controlling prosecutions and performance of adjudicatory functions other than those relating to arbitration or other methods of alternative dispute resolution.

(3) Commanding military forces, especially the leadership of military personnel who are members of the combat, combat support, or combat service support role.

(4) Conducting foreign relations and determining foreign policy.

(5) Determining agency policy, such as deciding the content and application of regulations.

(6) Determining Federal program priorities for budget requests.

(7) Directing and controlling Federal employees.

(8) Directing and controlling intelligence and counter-intelligence operations.

(9) Selecting or not selecting individuals for Federal Government employment, including interviewing individuals for employment.

(10) Approving position descriptions and performance standards for Federal employees.

(11) Determining what Government property is to be disposed of and on what terms (although an agency may give contractors authority to dispose of property at prices within specified ranges and subject to other reasonable conditions deemed appropriate by the agency).

(12) In Federal procurement activities with respect to prime contracts—

(i) Determining what supplies or services are to be acquired by the Government (although an agency may give contractors authority to acquire supplies at prices within specified ranges and subject to other reasonable conditions deemed appropriate by the agency);

(ii) Participating as a voting member on any source selection boards;

(iii) Approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria;

(iv) Awarding contracts;

(v) Administering contracts (including ordering changes in contract performance or contract quantities, taking action based on evaluations of contractor performance, and accepting or rejecting contractor products or services);

(vi) Terminating contracts;

(vii) Determining whether contract costs are reasonable, allocable, and allowable; and

(viii) Participating as a voting member on performance evaluation boards.

(13) Approving agency responses to Freedom of Information (FOIA) requests (other than routine responses that, because of statute, regulation, or agency policy, do not require the exercise of judgment in determining whether documents are to be released or withheld), and approving agency responses to the administrative appeals of denials of FOIA requests.

(14) Conducting administrative hearings to determine the eligibility of any person for a security clearance, or involving actions that affect matters of personal reputation or eligibility to participate in Government programs.

(15) Approving Federal licensing actions and inspections.

(16) Determining budget policy, guidance, and strategy.

(17) Collecting, controlling, and disbursing fees, royalties, duties, fines, taxes, or other public funds, unless authorized by statute, such as 31 U.S.C. 3718 (relating to private collection contractors and private attorney collection services), but not including—

(i) Collecting fees, fines, penalties, costs, or other charges from visitors to or patrons of mess halls, post or base exchange concessions, national parks, and similar entities or activities, or from other persons, where the amount to be collected is easily calculated or predetermined and the funds collected can be easily controlled using standard case management techniques; and

(ii) Routinely examining vouchers and invoices.

(18) Controlling treasury accounts.

(19) Administering public trusts.

(20) Drafting Congressional testimony, responses to Congressional correspondence, or agency responses to audit reports from OIG, GAO, or other Federal audit entity.

(b) Agency decisions that determine whether a function is or is not an inherently governmental function may be reviewed and modified by appropriate OMB officials.

37.301–3 Functions that may cross into inherently governmental functions.

(a) The following is a non-exclusive list of functions generally not considered inherently governmental but may, depending on contractor or Government approach, cross the line into that category.

(1) Services that involve or relate to budget preparation, including workload modeling, fact finding, efficiency studies, and should-cost analyses, etc.

(2) Services that involve or relate to reorganization and planning activities.

(3) Services that involve or relate to analyses, feasibility studies, and strategy options to be used by agency personnel in developing policy.

(4) Services that involve or relate to developing regulations.

(5) Services that involve or relate to evaluating another contractor's performance.

(6) Services that support acquisition planning.

(7) Contract management support including:

(i) Assistance in technical evaluation of proposals.

(ii) Assistance in developing SOWs or SOOs.

(iii) Assistance in providing responses to FOIA inquiries.

(iv) Working in situations that might provide access to confidential business information or other sensitive information (other than situations covered by the National Industrial Security Program (NISP) described in 40.302–1).

(v) Providing information regarding agency policies or regulations, such as attending conferences on behalf of an agency, conducting community relations campaigns, or conducting agency training courses.

(vi) Participating in any situation where it might be assumed that they are agency employees or representatives.

(vii) Participating as technical advisors to a source selection board or participating as voting or nonvoting members of a source evaluation board.

(viii) Serving as arbitrators or providing alternative methods of dispute resolution.

(ix) Constructing buildings or structures intended to be secure from electronic eavesdropping or other penetration by foreign governments.

(x) Providing inspection services.

(xi) Providing legal advice and interpretations of regulations and statutes to Government officials.

(xii) Providing special non-law enforcement, security activities that do not directly involve criminal investigations, such as prisoner detention or transport and non-military national security details.

(b) Agencies must carefully develop requirements for such work to ensure contracted functions do not expand into inherently governmental functions.

37.302 Evaluation and award.

37.302–1 Policy.

Agencies must not award a contract for the performance of an inherently governmental function.

37.303 Postaward.

37.303–1 Contractor support to inherently governmental functions.

Agencies must actively administer contracts to ensure contract functions do not expand into inherently governmental functions, including—

(a) Assigning sufficient qualified Government employees to actively oversee contractor work and monitor for potential encroachment on inherently governmental functions, particularly when the work supports Government policy- or decision-making;

(b) Requiring contractor personnel to identify themselves as contractors when attending meetings, answering government phones, or in any situation where their status might be unclear to the public or Congress, unless the agency determines no confusion or harm would result; and

(c) Ensuring contractor-produced documents are clearly marked as contractor products or include appropriate disclosure of contractor involvement.

Subpart 37.4—Advisory and Assistance Services

37.401 Definition.

Covered personnel, as used in this subpart, means—

(1) An officer or an individual who is appointed in the civil service by one of the following acting in an official capacity:

(i) The President.

(ii) A Member of Congress.

(iii) A member of the uniformed services.

(iv) An individual who is an employee under 5 U.S.C. 2105.

(v) The head of a Government-controlled corporation.

(vi) An adjutant general appointed by the Secretary concerned under 32 U.S.C. 709(c).

(2) A member of the Armed Services of the United States.

(3) A person assigned to a Federal agency who has been transferred to another position in the competitive service in another agency.

37.402 Presolicitation.

37.402–1 Policy.

Agencies may leverage advisory and assistance services (A&AS) as a way to improve Government services and operations. When essential to the agency's mission, agencies may contract for A&AS to obtain certain—

(a) Management and professional support services;

(b) Studies, analyses, and evaluations (see 37.402–3 for limitations on evaluative work); or

(c) Engineering and technical services.

37.402–2 Prohibitions.

A&AS contracts must not be awarded for purposes of—

(a) Performing work of a policy-making, decision-making, or managerial nature which is the direct responsibility of agency officials;

(b) Bypassing or undermining personnel ceilings, pay limitations, or competitive employment procedures;

(c) Aiding in influencing or enacting legislation; or

(d) Obtaining professional or technical advice which is readily available within the agency or another Federal agency.

37.402–3 A&AS contracts for the evaluation of proposals.

Agencies must not contract for A&AS to conduct evaluations or analyses of any aspect of a proposal submitted for an initial contract award unless—

(a) The head of the agency has determined covered personnel with the required training and capabilities to perform the evaluation or analysis are not readily available in the agency or from another Federal agency (41 U.S.C. 1709).

(1) The head of the agency may consider the associated administrative burden when assessing the feasibility of using covered personnel from other agencies. Such considerations may include—

(i) The time and cost associated with searching for suitable personnel;

(ii) Potential travel costs;

(iii) The amount of such costs in relation to the acquisition value; and

(iv) Potential competing demands for the personnel in meeting the agency's mission.

(2) The contracting officer must ensure, to the maximum extent practicable, the head of the agency makes any such determination prior to issuing the solicitation and in accordance with agency procedures. Once the contracting officer releases the solicitation, the head of the agency must make a determination of a need for A&AS support in analyzing proposals for the initial contract award prior to granting the A&AS contractor access to any proposal material.

(b) The contractor is a Federally-Funded Research and Development Center (FFRDC) as authorized in 41 U.S.C. 1709(c) and the work placed under the FFRDC's contract meets the criteria of part 35; or

(c) Such functions are otherwise authorized by law.

37.402–4 Exclusions.

The following activities and programs are excluded or exempted from the definition of A&AS:

(a) Routine information technology services unless they are an integral part of a contract for the acquisition of A&AS.

(b) Architectural and engineering services as defined in 40 U.S.C. 1102.

(c) Research on theoretical mathematics and basic research involving medical, biological, physical, social, psychological, or other phenomena.

37.403 Evaluation and award.

37.403–1 Treatment of former Government employees.

Agencies must ensure A&AS is not contracted for on a preferential basis to former Government employees.

37.403–2 Avoiding A&AS use in evaluation of proposals.

When evaluating proposals for initial contract award, agencies must not use A&AS to support evaluation unless the conditions at 37.402–3 are satisfied.

37.404 Postaward.

37.404–1 Performance monitoring in A&AS contracts.

(a) Agencies must administer A&AS contracts with sufficient oversight to ensure A&AS contractors do not perform prohibited practices at 37.402–2.

(b) Agencies must not pay for A&AS evaluations or analyses of any aspect of a proposal submitted for an initial contract award unless the agency satisfies the conditions at 37.402–3.

Subpart 37.5—Child Care Services

37.501 Definition.

Child care services, as used in this subpart, means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

37.502 Presolicitation.

37.502–1 Policy.

Agencies must ensure that contracts for nonpersonal child care services include requirements for criminal history background checks on employees who will perform child care services under the contract in accordance with 34 U.S.C. 20351 and agency procedures.

Subpart 37.6—Nonpersonal Health Care Services

37.601 Presolicitation.

37.601–1 Policy.

Agencies must ensure nonpersonal health care services contracts with physicians, dentists and other health care providers include indemnification and medical liability insurance.

37.601–2 Procedures.

To ensure adequate medical liability insurance is obtained, insert the necessary value(s) in paragraph (a) of contract clause 52.237–7. Agencies determine the value(s) by considering the standard coverage prevailing within the local community for the specific medical specialty, or a higher amount if necessary to protect the Government's interests.

37.601–3 Contract clause.

Insert the clause at 52.237–7, Indemnification and Medical Liability Insurance, in solicitations and contracts for nonpersonal health care services, including those for commercial services.

37.602 Evaluation and award.

37.602–1 Evidence of insurability.

Before making award, obtain proof that the apparent successful offeror will be able to obtain the required medical liability insurance (*e.g.,* letter of intent from a reputable insurer, underwriting approval letter).

37.603 Postaward.

37.603–1 Evidence of insurance.

After contract award, but before performance begins, the contracting officer must obtain proof that the contractor holds an active policy for the required medical liability insurance.

Subpart 37.7—Dismantling, Demolition, or Removal of Improvements

37.701 Presolicitation.

37.701–1 Labor standards.

Contracts for dismantling of buildings, ground improvements, and other real property structures and for the removal of such structures or a portion of them (hereafter referred to as *dismantling, demolition, or removal of improvements*) must comply with one of two labor standards statutes. Service Contract Labor Standards (41 U.S.C. chapter 67) apply when the contract is solely for dismantling, demolition, or removal. However, if the Government plans any follow-on construction, alteration, or repair work of a public building or public work at the same location—even under a separate contract—then the Construction Wage Rate Requirements (40 U.S.C. chapter 31, subchapter IV) apply (see part 22).

37.701–2 Bonds or other security.

The standard bonding requirements (see part 28) in 40 U.S.C. chapter 31, subchapter III do not apply to contracts solely for dismantling, demolition, or removal of improvements. However, the contracting officer may require the contractor to furnish a performance bond or other security in an amount that the contracting officer considers adequate to—

(a) Ensure completion of the work;

(b) Protect property to be retained by the Government;

(c) Protect property to be provided as compensation to the contractor; and

(d) Protect the Government against damage to adjoining property.

37.701–3 Payments and title.

Agencies must structure contracts to carefully balance payment terms and title rights to protect the Government's interests.

(a) Contracts for dismantling or demolition may be structured so that either the Government pays the contractor for performing the work, or the contractor pays the Government for the right to salvage and remove the resulting materials.

(b) Evaluate all salvageable property to determine its usefulness to the Government. When property is worth more to the Government than its salvage value to the contractor, the contract must specifically designate it for Government retention. For all other property, which the contractor will own, determine its fair market value. This valuation affects both payment structure and any potential termination compensation.

37.701–4 Contract clauses.

(a) Insert the clause at 52.237–4, Payment by Government to Contractor, in solicitations and contracts for services, including those for commercial services, solely for dismantling, demolition, or removal of improvements whenever the contracting officer determines that the Government must make payment to the contractor in addition to any title to property that the contractor may receive under the contract. Use the clause with its Alternate I if the contracting officer determines that all material resulting from the dismantling or demolition work is to be retained by the Government.

(b) Insert the clause at 52.237–5, Payment by Contractor to Government in solicitations and contracts for services, including those for commercial services, for dismantling, demolition, or removal of improvements whenever the contractor is to receive title to dismantled or demolished property and a net amount of compensation is due to the Government, except if the contracting officer determines that it would be advantageous to the Government for the contractor to pay in increments and the Government to transfer title to the contractor for increments of property only upon receipt of those payments.

(c) Insert the clause at 52.237–6,Incremental Payment by Contractor to Government, in solicitations and contracts for services, including those for commercial services, for dismantling, demolition, or removal of improvements if—

(1) The contractor is to receive title to dismantled or demolished property and a net amount of compensation is due the Government; and

(2) The contracting officer determines that it would be advantageous to the Government for the contractor to pay in increments (*e.g.,* to encourage greater competition or participation of small business concerns), and for the Government to transfer title to the contractor for increments of property only upon receipt of those payments.

Subpart 37.8—Other Service Considerations

37.801 Definitions.

As used in this subpart—

Adjusted hourly rate (including uncompensated overtime) is the rate that results from multiplying the hourly

rate for a 40-hour work week by 40, and then dividing by the proposed hours per week which includes uncompensated overtime hours over and above the standard 40-hour work week. For example, 45 hours proposed on a 40-hour work week basis at $20 per hour would be converted to an uncompensated overtime rate of $17.78 per hour ($20.00 × *40/45 = $17.78).*

Uncompensated overtime means the hours worked without additional compensation in excess of an average of 40 hours per week by direct charge employees who are exempt from the Fair Labor Standards Act. Compensated personal absences such as holidays, vacations, and sick leave must be included in the normal work week for purposes of computing uncompensated overtime hours.

37.802 Presolicitation.

37.802–1 Uncompensated overtime.

Agencies must ensure solicitations do not incentivize the use of uncompensated overtime (10 U.S.C. 4507).

37.802–2 Services of quasi-military armed forces.

Agencies must not contract with organizations that offer quasi-military armed forces for hire, or with their employees, regardless of the contract's character (5 U.S.C. 3108). An organization providing guard or protective services is not a quasi-military armed force, even though the guards are armed or the organization provides general investigative or detective services.

37.802–3 Foreign national severance cost limitations.

(a) *Authority.* Part 31 specifies cost allowability limitations for severance payments to foreign nationals under service contracts outside the United States. However, agencies may waive or except the cost limitations in certain circumstances (see 10 U.S.C. 3744 and 41 U.S.C. 4304).

(b) *Waivers.* The head of the agency may waive such severance cost limitations when—

(1) The application of the severance pay limitations to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for—

(i) Members of the armed forces stationed or deployed outside the United States; or

(ii) Employees of an executive agency posted outside the United States; and

(2) The Contractor has taken, or has established plans to take, appropriate actions within its control to minimize the amount and number of incidents of the payment of severance pay to employees under the contract who are foreign nationals; and

(3) The payment of severance pay is necessary to—

(i) Comply with a law that is generally applicable to a significant number of businesses in the country where the foreign national performed services; or

(ii) Comply with a collective bargaining agreement.

(c) *Waiver restrictions.*

(1) Waivers may not be granted if the severance is a result of the curtailment or termination of basing rights of the United States military at the request of the host government (see part 31).

(2) Waivers may only be granted prior to contract award.

(d) *Exception.* The Secretary of Defense may determine that the cost allowability limitations on severance do not apply in military banking contracts (10 U.S.C. 3744(a)(13) and (14)).

37.802–4 Use of private sector temporaries.

(a) Agencies may hire temporary help service firms to provide workers for short-term or occasional needs (5 U.S.C. 3109). These arrangements are not considered personal services contracts. However, agencies cannot use temporary help to avoid normal Federal hiring processes or replace existing Federal employees.

(b) All temporary help contracts must comply with the requirements in 5 CFR part 300, subpart E, Use of Private Sector Temporaries, and agency procedures.

(c) Contracting officers should consult with cognizant civilian personnel offices for expertise when exercising this authority.

37.802–5 Solicitation provisions and contract clauses.

(a) Insert the provision at 52.237–1, Site Visit, in solicitations for services, including those for commercial services, to be performed on Government installations, unless the solicitation is for construction.

(b) Insert the clause at 52.237–2, Protection of Government Buildings, Equipment, and Vegetation, in solicitations and contracts for services, including those for commercial services, to be performed on Government installations, unless a construction contract is contemplated.

(c) Insert the clause at 52.237–3, Continuity of Services, in solicitations and contracts for services, including those for commercial services, when—

(1) The services under the contract are considered vital to the Government and must be continued without interruption and when, upon contract expiration, a successor, either the Government or another contractor, may continue them; and

(2) The Government anticipates difficulties during the transition from one contractor to another or to the Government. Examples of instances where use of the clause may be appropriate are services in remote locations or services requiring personnel with special security clearances.

(d) Insert the provision at 52.237–8, Restriction on Severance Payments to Foreign Nationals, in solicitations for services, other than those for commercial services, that provide significant support for—

(1) Members of the armed forces stationed or deployed outside the United States; or

(2) Employees of an executive agency posted outside the United States.

(e) Insert the clause at 52.237–9, Waiver of Limitation on Severance Payments to Foreign Nationals in solicitations and contracts for services, other than those for commercial services, when the head of an agency has granted a waiver pursuant to 37.802–3(b).

(f) Insert the provision at 52.237–10, Identification of Uncompensated Overtime, in solicitations for services, other than those for commercial services, valued above the simplified acquisition threshold, for professional or technical services to be acquired on the basis of the level of effort rather than performance outcome required.

37.803 Evaluation and award.

37.803–1 Evaluating uncompensated overtime.

Agencies must ensure an offeror's use of uncompensated overtime will not degrade the level of technical expertise required to meet Government requirements. When offerors propose uncompensated overtime, assess potential risks posed by—

(a) Using adjusted hourly rates instead of standard hourly rates for all proposed hours;

(b) Reviewing whether unrealistically low labor rates or costs might lead to poor quality or inadequate service; and

(c) Examining whether uncompensated overtime is distributed unevenly across skill levels or concentrated in critical technical positions.

37.803–2 Funding and term of service contracts.

(a) Contracts funded by annual appropriations must not extend beyond the end of the fiscal year of the

appropriation except when authorized (see part 32).

(b) The head of the agency may enter into a contract, exercise an option, or place an order under a contract for severable services for a period that begins in one fiscal year and ends in the next fiscal year if the period of the contract awarded, option exercised, or order placed does not exceed one year (10 U.S.C. 3133 and 41 U.S.C. 3902). Funds made available for a fiscal year may be obligated for the total amount of an action entered into under this authority.

(c) Agencies with statutory multiyear authority should consider the use of this authority to encourage and promote economical business operations when acquiring services.

PART 41—ACQUISITION OF UTILITY SERVICES

Sec.

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Subpart 41.1—General

41.100 Scope of part.

This part prescribes policies, procedures, and contract format for the acquisition of utility services.

41.101 Definitions.

As used in this part,

Areawide contract means a contract entered into between the General Services Administration (GSA) and a utility service supplier to cover utility service needs of agencies within the franchise territory of the supplier. Each areawide contract includes an ''Authorization'' form for requesting service, connection, disconnection, or change in service.

Authorization means the document executed by the ordering agency and the utility supplier to order service under an areawide contract.

Connection charge means all nonrecurring costs, whether refundable or nonrefundable, to be paid by the Government to the utility supplier for the required connecting facilities, which are installed, owned, operated, and maintained by the utility supplier (see Termination liability).

Federal Power and Water Marketing Agency means a Government entity that produces, manages, transports, controls, and sells electrical and water supply service to customers.

Franchise territory means a geographical area that a utility supplier has a right to serve based upon a franchise, a certificate of public convenience and necessity, or other legal means.

Intervention means action by GSA or a delegated agency (see 41.103(b)) to formally participate in a utility regulatory proceeding on behalf of all agencies.

Rates may include rate schedules, riders, rules, terms and conditions of service, and other tariff and service charges, *e.g.,* facilities use charges.

Separate contract means a utility services contract (other than a GSA areawide contract, an Authorization under an areawide contract, or an interagency agreement) to cover the acquisition of utility services.

Termination liability means a contingent Government obligation to pay a utility supplier the unamortized portion of a connection charge and any other applicable nonrefundable service charge as defined in the contract in the event the Government terminates the contract before the cost of connection facilities has been recovered by the utility supplier (see ''Connection charge'').

Utility service includes, but is not limited to, a continuous service such as furnishing electricity, natural or manufactured gas, water, sewerage, thermal energy, chilled water, steam, hot water, or high temperature hot water for use in the United States. Utility services do not include any of the above when purchased for use in a foreign country. It also does not include the following: broadband internet, non-broadcast television, telecommunications services, information technology services, acquisitions of natural or manufactured gas when not purchased as utility services (*i.e.,* when purchased as commodities), or acquisitions of rights in real property, acquisitions of public utility facilities, and on-site equipment needed for the facility's own distribution system, or construction/maintenance of Government-owned equipment and real property.

41.102 Applicability.

(a) Agencies not using authorities referenced in 41.103(a)(2) and 41.103(a)(3) must contact the GSA at *utilities@gsa.gov* for assistance with the acquisition of utility services, and must follow all procedures and guidance provided by the GSA regarding the procurement of utility services (see 40 U.S.C. 501 and 48 CFR subpart 541.5).

(b) This part does not apply to agencies when they are procuring—

(1) Utility services produced, distributed, or sold by another agency. In those cases, agencies must use interagency agreements;

(2) Utility services obtained by purchase, exchange, or otherwise by a Federal power or water marketing agency incident to that agency's marketing or distribution program; or

(3) Third party financed shared-savings projects authorized by 42 U.S.C. 8287. However, agencies may utilize part 41 for any energy savings or purchased utility service directly resulting from implementation of a third party financed shared-savings project under 42 U.S.C. 8287 for periods not to exceed 25 years.

41.103 Statutory and delegated authority.

(a) *Statutory authority.*

(1) The General Services Administration (GSA) is authorized by 40 U.S.C. 501 to prescribe policies and methods governing the acquisition and supply of utility services for agencies. This authority includes related functions such as managing public utility services and representing agencies in proceedings before Federal and state regulatory bodies. GSA is authorized by 40 U.S.C. 501 to contract for utility services for periods not exceeding ten years.

(2) The Department of Defense (DOD) is authorized by 10 U.S.C. 3201(a), and 40 U.S.C. 113(e)(3) to acquire utility services for military facilities.

(3) The Department of Energy (DOE) is authorized by the Department of Energy Organization Act (42 U.S.C. 7251, *et seq.*) to acquire utility services. DOE is authorized by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2204), to enter into new contracts or

modify existing contracts for electric services for periods not exceeding 25 years for uranium enrichment installations.

(b) *Delegated authority.* GSA has delegated its authority to enter into utility service contracts for periods not exceeding ten years to DOD and DOE, and for connection charges only, to the Department of Veteran Affairs. Contracting pursuant to this delegated authority must be consistent with the requirements of this part. Other agencies requiring utility service contracts for periods over one year, but not exceeding ten years, may request a delegation of authority from GSA at *utilities@gsa.gov.* In keeping with its statutory authority, GSA will, as necessary, conduct reviews of delegated agencies' acquisitions of utility services to ensure compliance with the terms of the delegation and applicable laws and regulations.

(c) *Certification.* Requests for delegations of contracting authority from GSA must include a certification from the acquiring agency's Senior Procurement Executive that the agency has—

(1) An established acquisition program;

(2) Personnel technically qualified to deal with specialized utilities problems; and

(3) The ability to accomplish its own pre-award contract review.

Subpart 41.2—Acquiring Utility Services

41.201 Policy.

(a) Subject to paragraph (c) of this section, it is the policy of the Government that agencies obtain required utility services from sources of supply which are most advantageous to the Government in terms of economy, efficiency, reliability, or service.

(b) Except for acquisitions at or below the simplified acquisition threshold, agencies must acquire utility services by a bilateral written contract, which must include the clauses required by 41.501, regardless of whether rates or terms and conditions of service are fixed or adjusted by a regulatory body. Agencies may not use the utility supplier's forms and clauses to avoid the inclusion of provisions and clauses required by 41.501 or by statute. GSA is exempt from the requirement for a bilateral written contract when GSA acquires utility services from or establishes new accounts with a regulated utility service provider, or to pay for services rendered by any such provider including under an areawide contract.

(c)(1) Section 8093 of the Department of Defense Appropriations Act of 1988, Public Law 100–202, provides that none of the funds appropriated by that Act or any other Act with respect to any fiscal year by any department, agency, or instrumentality of the United States, may be used for the purchase of electricity by the Government in any manner that is inconsistent with state law governing the providing of electric utility service, including state utility commission rulings and electric utility franchises or service territories established pursuant to state statute, state regulation, or state-approved territorial agreements.

(2) The Act does not preclude—

(i) The head of an agency from entering into a contract pursuant to 42 U.S.C. 8287 (which pertains to the subject of shared energy savings including cogeneration);

(ii) The Secretary of a military department from entering into a contract pursuant to 10 U.S.C. 2922a (which pertains to contracts for energy or fuel for military installations including the provision and operation of energy production facilities); or

(iii) The Secretary of a military department from purchasing electricity from any provider when the utility or utilities having applicable state-approved franchise or other service authorizations are found by the Secretary to be unwilling or unable to meet unusual standards for service reliability that are necessary for purposes of national defense.

(3) Additionally, the head of an agency may—

(i) Consistent with applicable state law, enter into contracts for the purchase or transfer of electricity to the agency by a non-utility, including a qualifying facility under the Public Utility Regulatory Policies Act of 1978;

(ii) Enter into an interagency agreement, pursuant to 41.206 and 17.5, with a Federal power marketing agency or the Tennessee Valley Authority for the transfer of electric power to the agency; and

(iii) Enter into a contract with an electric utility under the authority or tariffs of the Federal Energy Regulatory Commission.

(d) Prior to acquiring electric utility services on a competitive basis, the contracting officer must determine, with the advice of legal counsel, by a market survey or any other appropriate means, *e.g.,* consultation with the state agency responsible for regulating public utilities, that such competition would not be inconsistent with state law governing the provision of electric utility service, including state utility commission rulings and electric utility franchises or service territories established pursuant to state statute, state regulation, or state-approved territorial agreements.

41.202 Procedures.

(a) Agencies must conduct market surveys and perform acquisition planning in order to promote and provide for full and open competition provided that the contracting officer determines that any resultant contract would not be inconsistent with applicable state law governing the provision of electric utility services. If competition for an entire utility service is not available, the market survey may be used to determine the availability of competitive sources for certain portions of the requirement. The scope of the term ''entire utility service'' includes the provision of the utility service capacity, energy, water, sewage, transportation, standby or back-up service, transmission and/or distribution service, quality assurance, system reliability, system operation and maintenance, metering, and billing.

(b) In performing a market survey, the contracting officer must consider, in addition to alternative competitive sources, use of the following:

(1) GSA areawide contracts;

(2) Separate contracts; and

(3) Interagency agreements.

(c) When a utility supplier refuses to execute a tendered contract, document the contract file and send a copy of the documentation to GSA at *utilities@gsa.gov.* Unless urgent and compelling circumstances exist, the contracting officer must notify GSA prior to acquiring utility services without executing a tendered contract. After such notification, the agency may proceed with the acquisition and pay for the utility service under the provisions of 31 U.S.C. 1501(a)(8)—

(1) By issuing a purchase order; or

(2) By ordering the necessary utility service and paying for it upon the presentation of an invoice, provided that a determination is approved by the head of the contracting activity that a written contract cannot be obtained and that the issuance of a purchase order is not feasible.

(d) When obtaining service without a bilateral written contract, except for GSA when utilizing its exemption, the contracting officer must establish a utility history file on each acquisition of utility service provided by a contractor. This utility history file must contain the following information:

(1) The unsigned, tendered contract and any related letter of transmittal.

(2) The reasons stated by the utility supplier for not executing the tendered

contract, the record of negotiations, and documentation of the supplier's refusal.

(3) Services to be furnished and the estimated annual cost.

(4) Historical record of any applicable connection charges.

(5) Historical record of any applicable ongoing capital credits.

(6) A copy of the applicable rate schedule.

(e) If the Government obtains utility services pursuant to paragraph (c) of this section, except for GSA when utilizing its exemption, the contracting officer must, on an annual basis beginning from the date of final refusal, take action to execute a bilateral written contract. The contracting officer must document the utility history file with the efforts made and the agency must notify GSA, in writing at *utilities@gsa.gov,* if the utility continues to refuse to execute a bilateral contract.

41.203 GSA assistance.

(a) GSA will, upon request, provide technical and acquisition assistance, or will delegate its contracting authority for the furnishing of the services described in this part for any agency, mixed-ownership Government corporation, the District of Columbia, the Senate, the House of Representatives, or the Architect of the Capitol and any activity under the Architect's direction.

(b) Agencies seeking assistance must provide, upon request by GSA, the information listed in 41.301.

41.204 GSA areawide contracts.

(a) *Purpose.* GSA enters into areawide contracts for use by agencies. Areawide contracts provide a pre-established contractual vehicle for ordering utility services under the conditions in paragraph (c)(1) of this section.

(b) *Features.*

(1) Areawide contracts generally provide for ordering utility service at rates approved and/or established by a regulatory body and published in a tariff or rate schedule. However, agencies are permitted to negotiate other rates and terms and conditions of service with the supplier (see paragraph (c) of this section). Rates other than those published may require the approval of the regulatory body.

(2) Areawide contracts are negotiated with utility service suppliers for the provision of service within the supplier's franchise territory or service area.

(3) Due to the regulated nature of the utility industry, as well as statutory restrictions associated with the procurement of electricity, competition is typically not available within the entire geographical area covered by an areawide contract, although it may be available at specific locations within the utility's service area. When competing suppliers are available, the provisions of paragraph (c)(1) of this section apply.

(c) *Procedures for obtaining service.*

(1) Any agency having a requirement for utility services within an area covered by an areawide contract must acquire services under that areawide contract unless—

(i) Service is available from more than one supplier; or

(ii) The head of the contracting activity otherwise determines that use of the areawide contract is not advantageous to the Government. If service is available from more than one supplier, service must be acquired using competitive acquisition procedures. The determination required by paragraph (c)(1)(ii) of this section must be documented in the contract file with an information copy furnished to GSA at *utilities@gsa.gov.*

(2) Each areawide contract includes an authorization form for ordering service, connection, disconnection, or change in service. Upon execution of an authorization by the contracting officer and utility supplier, the utility supplier is required to furnish services, without further negotiation, at the current, applicable published or unpublished rates, unless other rates, and/or terms and conditions are separately negotiated by the agency with the supplier.

(3) The contracting officer must execute the authorization, and attach it to a Standard Form (SF) 26, Award/Contract, along with any modifications such as connection charges, special facilities, or service arrangements. The contracting officer must also attach any specific fiscal, operational, and administrative requirements of the agency, applicable rate schedules, technical information and detailed maps or drawings of delivery points, details on Government ownership, maintenance, or repair of facilities, and other information deemed necessary to fully define the service conditions in the authorization/contract.

(d) *List of areawide contracts.* A list of current GSA areawide contracts is available from the GSA at *https://www.gsa.gov/real-estate/facilities-management/utility-services.* The list identifies the types of services and the geographic area served. A copy of the list or a contract may also be obtained from GSA by emailing *utilities@gsa.gov.*

(e) *Notification.* Agencies must provide a copy of each SF 26 and executed authorization issued under an areawide contract to GSA at *utilities@gsa.gov* within 30 days after execution.

41.205 Separate contracts.

(a) In the absence of an areawide contract or interagency agreement, agencies must acquire utility services by separate contract subject to this part, and subject to agency contracting authority.

(b) If an agency enters into a separate contract, the contracting officer must document the contract file with the following information:

(1) The number of available suppliers.

(2) Any special equipment, service reliability, or facility requirements and related costs.

(3) The utility supplier's rates, connection charges, and termination liability.

(4) Total estimated contract value (including costs in paragraphs (b)(2) and (3) of this subsection).

(5) Any technical or special contract terms required.

(6) Any unusual characteristics of services required.

(7) The utility's wheeling or transportation policy for utility service.

(c) If requesting GSA assistance with a separate contract, the requesting agency must furnish the technical and acquisition data specified in 41.205(b), 41.301, and such other data as GSA may deem necessary.

(d) A contract exceeding a 1-year period, but not exceeding ten years (except pursuant to 41.103), may be justified, and is usually required, where any of the following circumstances exist:

(1) The Government will obtain lower rates, larger discounts, or more favorable terms and conditions of service;

(2) A proposed connection charge, termination liability, or any other facilities charge to be paid by the Government will be reduced or eliminated; or

(3) The utility service supplier refuses to render the desired service except under a contract exceeding a 1-year period.

41.206 Interagency agreements.

Agencies must use interagency agreements (*e.g.,* consolidated purchase, joint use, or cross-service agreements) when acquiring utility service or facilities from other agencies.

Subpart 41.3—Requests for Assistance

41.301 Requirements.

(a) Requests for delegations of GSA contracting authority, assistance with a proposed contract, and the submission of other information required by this part, must be sent or submitted to GSA at *utilities@gsa.gov.*

(b) Requests for contracting assistance for utility services must be sent not later

than 120 days prior to the date new services are required to commence or an existing contract will expire. Requests for assistance must contain the following information:

(1) A technical description or specification of the type, quantity, and quality of service required, and a delivery schedule.

(2) A copy of any service proposal or proposed contract.

(3) Copies of all current published or unpublished rates of the utility supplier.

(4) Identification of any unusual factors affecting the acquisition.

(5) Identification of all available sources or methods of supply, an analysis of the cost effectiveness of each, and a statement of the ability of each source to provide the required services, including the location and a description of each available supplier's facilities at the nearest point of service, and the cost of providing or obtaining necessary backup and other ancillary services.

(c) For new utility service requirements, the agency must furnish the information in paragraph (b) of this section and the following as applicable:

(1) The date initial service is required.

(2) For the first 12 months of full service, estimated maximum demand, monthly consumption, other pertinent information (*e.g.,* demand side management, load or energy management, peak shaving, on site generation, load shaping), and annual cost of the service.

(3) Known or estimated time schedule for growth to ultimate requirements.

(4) Estimated ultimate maximum demand and ultimate monthly consumption.

(5) A simple schematic diagram or line drawing showing the meter locations, the location of the new utility facilities to be constructed on Government property by the agency, and any required new connection facilities on either side of the delivery point to be constructed by the utility supplier to provide the new services.

(6) Accounting and appropriation data to cover the required utility services and any connection charges required to be paid by the agency receiving such utility services.

(7) The following data concerning proposed facilities and related charges or costs:

(i) Proposed refundable or nonrefundable connection charge, termination liability, or other facilities charge to be paid by the agency, together with a description of the supplier's proposed facilities and estimated construction costs, and its rationale for the charge (*e.g.,* tariff provisions or policies).

(ii) A copy of the acquiring agency's estimate to make its own connection to the supplier's facilities through use of its own resources or by separate contract. When feasible, the acquiring agency must provide its estimates to construct and operate its own utility facilities in lieu of participating in a cost-sharing construction program with the proposed utility supplier.

(d) For existing utility service, the agency must furnish GSA the information in paragraph (b) of this section and the following, as applicable:

(1) A copy of the most recent 12 months' service invoices.

(2) A tabulation, by month, for the most recent 12 months, showing the actual utility demands, consumption, connection charges, fuel adjustment charges, and the average monthly cost per unit of consumption.

(3) An estimate, by month, for the next 12 months, showing the estimated maximum demands, monthly consumption, other pertinent information (*e.g.,* demand side management, load or energy management, peak shaving, on site generation, load shaping), and annual cost of the service.

(4) Accounting and appropriation data to cover the costs for the continuation of utility services.

(5) A statement noting whether the transformer, or other system components, on either side of the delivery point are owned by the agency or the utility supplier, and if the metering is on the primary or secondary side of the transformer.

Subpart 41.4—Administration

41.401 Monthly and annual review.

Agencies must review utility service invoices on a monthly basis. Agencies must review all utility accounts with annual values exceeding the simplified acquisition threshold, on an annual basis. Annual reviews of accounts with annual values at or below the simplified acquisition threshold must be conducted when deemed advantageous to the Government. The purpose of the monthly review is to ensure the accuracy of utility service invoices. The purpose of the annual review is to ensure that the utility supplier is furnishing the services to each facility under the utility's most economical, applicable rate and to examine competitive markets for more advantageous service offerings. The annual review must be based upon the facility's usage, conditions and characteristics of service at each individual delivery point for the most recent 12 months. If a more advantageous rate is appropriate, the agency must request the supplier to make such rate change immediately.

41.402 Rate changes and regulatory intervention.

(a) When a change is proposed to rates or terms and conditions of service to the Government, the agency must promptly determine whether the proposed change is reasonable, justified, and not discriminatory.

(b) If a change is proposed to rates or terms and conditions of service that may be of interest to other agencies, and intervention before a regulatory body is considered justified, the matter must be referred to GSA. The agency may request from GSA a delegation of authority for the agency to intervene on behalf of the consumer interests of the agencies.

(c) Pursuant to 52.241–7, Change in Rates or Terms and Conditions of Service for Regulated Services, if a regulatory body approves a rate change, any rate change must be made a part of the contract by unilateral contract modification by the Government or otherwise documented in accordance with agency procedures. The approved applicable rate must be effective on the date determined by the regulatory body and resulting rates and charges must be paid promptly to avoid late payment provisions. Copies of the modification containing the approved rate change must be sent to the agency's paying office or office responsible for verifying billed amounts.

(d) If the utility supplier is not regulated and the rates, terms, and conditions of service are subject to negotiation pursuant to the clause at 52.241–8, Change in Rates or Terms and Conditions of Service for Unregulated Services, any rate change must be made a part of the contract by a bilateral contract modification, with copies sent to the agency's paying office or office responsible for verifying billed amounts.

Subpart 41.5—Solicitation Provision and Contract Clauses

41.501 Solicitation provision and contract clauses.

Because the terms and conditions under which utility suppliers furnish service may vary from area to area, the differences may influence the terms and conditions appropriate to a particular utility's contracting situation. To accommodate requirements that are peculiar to the contracting situation, this section prescribes provisions and clauses on a ''substantially the same as''

basis, which permits the contracting officer to prepare and utilize variations of the prescribed provisions and clauses in accordance with agency procedures. Insert the following provisions and clauses in solicitations and contracts for utility services, as prescribed, including utility services that are commercial services:

(a) Insert a provision substantially the same as the provision at 52.241–1, Electric Service Territory Compliance Representation, in solicitations when proposals from alternative electric suppliers are sought.

(b) Insert in solicitations and contracts for utility services clauses substantially the same as the clauses at—

(1) 52.241–2, Order of Precedence—Utilities;

(2) 52.241–3, Scope and Duration of Contract;

(3) 52.241–4, Change in Class of Service;

(4) 52.241–5, Contractor's Facilities; and

(5) 52.241–6, Service Provisions.

(c) Insert clauses substantially the same as the clauses listed below in solicitations and contracts under the prescribed conditions—

(1) 52.241–7, Change in Rates or Terms and Conditions of Service for Regulated Services, when the utility services are subject to a regulatory body. (Except for GSA areawide contracts, insert in the blank space provided in the clause the name of the contracting officer. For GSA areawide contracts, the contracting officer must insert the following: ''GSA and each areawide customer with annual billings that exceed $250,000.'')

(2) 52.241–8, Change in Rates or Terms and Conditions of Service for Unregulated Services, when the utility services are not subject to a regulatory body.

(3) 52.241–9, Connection Charge, when a refundable connection charge is required to be paid by the Government to compensate the contractor for furnishing additional facilities necessary to supply service. (Use *Alternate I* to the clause if a nonrefundable charge is to be paid. When conditions require the incorporation of a nonrecurring, nonrefundable service charge or a termination liability, see paragraphs (c)(6) and (c)(4) of this section.)

(4) 52.241–10, Termination Liability, when payment is to be made to the contractor upon termination of service in conjunction with, or in lieu of, a connection charge upon completion of the facilities.

(5) 52.241–11, Multiple Service Locations (as defined in 41.101), when providing for possible alternative service locations, except under areawide contracts, is required.

(6) 52.241–12, Nonrefundable, Nonrecurring Service Charge, when the Government is required to pay a nonrefundable, nonrecurring membership fee, a charge for initiation of service, or a contribution for the cost of facilities construction. The Government may provide for inclusion of such agreed amount or fee as a part of the connection charge, a part of the initial payment for services, or as periodic payments to fulfill the Government's obligation.

(7) 52.241–13, Cooperative Membership, when the Government is a member of a cooperative.

Subpart 41.6—Forms

41.601 Utility services forms.

(a) If acquiring utility services under other than an areawide contract, a purchase order, or an interagency agreement, the Standard Form (SF) 33, Solicitation, Offer and Award; SF 26, Award/Contract; or SF 1447, Solicitation/Contract, must be used.

(b) The contracting officer must incorporate the applicable rate schedule in each contract, purchase order or modification.

Subpart 41.7—Formats

41.701 Formats for utility service specifications.

(a) The following specification formats for use in acquiring utility services are available from GSA at *utilities@gsa.gov* and may be used and modified at the agency's discretion:

(1) Electric service.

(2) Water service.

(3) Steam service.

(4) Sewage service.

(5) Natural gas service.

(b) Contracting officers may modify the specification format referenced in paragraph (a) of this section and attach technical items, details on Government ownership of equipment and real property and maintenance or repair obligations, maps or drawings of delivery points, and other information deemed necessary to fully define the service conditions.

(c) The specifications and attachments (see paragraph (b) of this section) must be inserted in Section C of the utility service solicitation and contract.

41.702 Formats for annual utility service review.

(a) Formats for use in conducting annual reviews of the following utility services are available from GSA at *utilities@gsa.gov* and may be used at the agency's discretion:

(1) Electric service.

(2) Gas service.

(3) Water and sewage service.

(b) Contracting officers may modify the annual utility service review format as necessary to fully cover the service used.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

52.207–1 through 52.207–3 [Removed and Reserved]

■ 6. Remove and reserve sections 52.207–1 through 52.207–3.

■ 7. Revise sections 52.207–4 through 52.207–6 to read as follows:

52.207–4 Economic Purchase Quantity—Supplies.

As prescribed in 7.303, insert the following provision:

Economic Purchase Quantity—Supplies (DATE)

(a) Offerors are invited to state an opinion on whether the quantity(ies) of supplies on which bids, proposals or quotes are requested in this solicitation is (are) economically advantageous to the Government.

(b) Each offeror who believes that acquisitions in different quantities would be more advantageous is invited to recommend an economic purchase quantity. If different quantities are recommended, a total and a unit price must be quoted for applicable items. An economic purchase quantity is that quantity at which a significant price break occurs. If there are significant price breaks at different quantity points, this information is desired as well.

OFFEROR RECOMMENDATIONS

Item	Quantity	Price quotation	Total

(c) The information requested in this provision is being solicited to avoid acquisitions in disadvantageous quantities and to assist the Government in developing a data base for future acquisitions of these items. However, the Government reserves the right to amend or cancel the solicitation and resolicit with respect to any individual item in the event quotations received and the Government's requirements indicate that different quantities should be acquired.

(End of provision)

52.207–5 Option To Purchase Equipment.

As prescribed in 7.404, insert a clause substantially the same as the following:

Option To Purchase Equipment (DATE)

(a) The Government may purchase the equipment provided on a lease or rental basis under this contract. The Contracting Officer may exercise this option only by providing a unilateral modification to the Contractor. The effective date of the purchase will be specified in the unilateral modification and may be any time during the period of the contract, including any extensions thereto.

(b) Except for final payment and transfer of title to the Government, the lease or rental portion of the contract becomes complete and lease or rental charges must be discontinued on the day immediately preceding the effective date of purchase specified in the unilateral modification required in paragraph (a) of this clause.

(c) The purchase conversion cost of the equipment must be computed as of the effective date specified in the unilateral modification required in paragraph (a) of this clause, on the basis of the purchase price set forth in the contract, minus the total purchase option credits accumulated during the period of lease or rental, calculated by the formula contained elsewhere in this contract.

(d) The accumulated purchase option credits available to determine the purchase conversion cost will also include any credits accrued during a period of lease or rental of the equipment under any previous Government contract if the equipment has been on continuous lease or rental. The movement of equipment from one site to another site must be ''continuous rental.''

(End of clause)

52.207–6 Solicitation of Offers from Small Business Concerns and Small Business Teaming Arrangements or Joint Ventures (Multiple-Award Contracts).

As prescribed in 7.107–4, insert the following provision:

Solicitation of Offers From Small Business Concerns and Small Business Teaming Arrangements or Joint Ventures (Multiple-Award Contracts) (DATE)

(a) *Definition.* ''Small Business Teaming Arrangement,'' as used in this provision—

(1) Means an arrangement where—

(i) Two or more small business concerns have formed a joint venture; or

(ii) A small business offeror agrees with one or more other small business concerns to have them act as its subcontractors under a specified Government contract. A Small Business Teaming Arrangement between the offeror and its small business subcontractor(s) exists through a written agreement between the parties that—

(A) Is specifically referred to as a ''Small Business Teaming Arrangement''; and

(B) Sets forth the different responsibilities, roles, and percentages (or other allocations) of work as it relates to the acquisition;

(2)(i) For civilian agencies, may include two business concerns in a mentor-protégé relationship when both the mentor and the protégé are small or the protégé is small and the concerns have received an exception to affiliation pursuant to 13 CFR 121.103(h)(3)(ii) or (iii).

(ii) For DoD, may include two business concerns in a mentor-protégé relationship in the Department of Defense Mentor-Protégé Program (see 10 U.S.C. 4902) when both the mentor and the protégé are small. There is no exception to joint venture size affiliation for offers received from teaming arrangements under the DoD Mentor-Protégé Program; and

(3) See 13 CFR 121.103(b)(9) regarding the exception to affiliation for offers received from Small Business Teaming Arrangements in the case of a solicitation of offers for a bundled contract or a Multiple Award Contract with a value in excess of the agency's substantial bundling threshold.

(b) The Government is soliciting and will consider offers from any responsible source, including responsible small business concerns and offers from Small Business Teaming Arrangements or joint ventures of small business concerns.

(End of provision)

■ 8. Add section 52.207–7 to read as follows:

52.207–7 Market Research.

As prescribed in 7.202, insert the following clause:

Market Research (DATE)

(a) *Definition.* As used in this clause—

Commercial product, commercial service, and *nondevelopmental item* have the meaning contained in Federal Acquisition Regulation (FAR) 2.101.

(b) *Subcontracts.* Before awarding subcontracts for other than commercial products and commercial services, where the subcontracts are over the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award, the Contractor must conduct market research to determine, in the following order of priority, whether—

(1) A commercial product or commercial service can meet the agency's requirements;

(2) The requirements could be modified so the agency could use an existing commercial product or commercial service;

(3) A commercial product or commercial service could be modified to meet the agency's requirements; or

(4) The requirement can only be satisfied by a nondevelopmental item.

(End of clause)

52.210–1 [Removed and Reserved]

■ 9. Remove and reserve section 52.210–1.

■ 10. Revise sections 52.226–1 through 52.226–8 to read as follows:

52.226–1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises.

As prescribed in 26.302–2, insert the following clause:

Utilization of Indian Organizations and Indian-Owned Economic Enterprises (DATE)

(a) *Definitions.* As used in this clause:

Indian means any person who is a member of any Indian tribe, band, group, pueblo, or community that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) (see 25 U.S.C. 1452) and any ''Native'' as defined in the Alaska Native Claims Settlement Act (see 43 U.S.C. 1602).

Indian organization means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C., chapter 17.

Indian-owned economic enterprise means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership constitutes not less than 51 percent of the enterprise.

Indian tribe means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, that is recognized by the Federal Government as eligible for services from BIA. See 25 U.S.C. 1452.

Interested party means a prime contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to receive a subcontract.

(b) *Opportunity to participate in subcontracts.* The Contractor must use its best efforts to give Indian organizations and Indian-owned economic enterprises maximum practicable opportunity to participate in the subcontracts it awards, while still efficiently performing its contract.

(1) The Contracting Officer and the Contractor may rely on the representation of an Indian organization or Indian-owned economic enterprise as to its own eligibility, unless an interested party challenges its status or the Contracting Officer has independent reason to question that status.

(2) If the representation of a subcontractor is challenged, the Contracting Officer will refer the matter to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), Acquisition Management Director (available at *https://www.bia.gov/as-ia/ocfo/acquisitions*).

(3) BIA will determine the eligibility and notify the Contracting Officer. The Contractor must not make an incentive payment within 50 working days of subcontract award or

while a challenge is pending. If a subcontractor is determined to be ineligible, the Contractor must not make an incentive payment under the Indian Incentive Program.

(4) The Contractor may request an adjustment under the Indian Incentive Program to the following:

(i) The estimated cost of a cost-type prime contract.

(ii) The target cost of a cost-plus-incentive-fee prime contract.

(iii) The target cost and ceiling price of a fixed-price incentive prime contract.

(iv) The price of a firm-fixed-price prime contract.

(5) The amount of the adjustment to the prime contract is 5 percent of the estimated cost, target cost, or firm-fixed-price included in the subcontract first awarded to the Indian organization or Indian-owned economic enterprise.

(6) The Contractor must prove the amount claimed. They must request an adjustment before completing contract performance.

(c) *Incentive payment.* The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, will authorize an incentive payment of 5 percent of the amount paid to the subcontractor.

(End of clause)

52.226–2 Historically Black College or University and Minority Institution Representation.

As prescribed in 26.402–2, insert the following provision:

Historically Black College or University and Minority Institution Representation (DATE)

(a) *Definitions.* As used in this provision—

Historically black college or university means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2.

Minority institution means an institution of higher education meeting the requirements of Section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k), including a Hispanic-serving institution of higher education, as defined in Section 502(a) of the Act (20 U.S.C. 1101a).

(b) *Representation.* The offeror represents that it—

☐ is ☐ is not a historically black college or university;

☐ is ☐ is not a minority institution.

(End of provision)

52.226–3 Disaster or Emergency Area Representation.

As prescribed in 26.102–3(a), insert the following provision:

Disaster or Emergency Area Representation (DATE)

(a) *Set-aside area.* The area covered in this contract is: _____
[Contracting Officer to fill in with definite geographic boundaries.]

(b) *Representations.* The offeror represents that it ☐ does ☐ does not reside or primarily do business in the set-aside area.

(c) An offeror is considered to be residing or primarily doing business in the set-aside area if, during the last twelve months—

(1) The offeror had its main operating office in the area; and

(2) That office generated at least half of the offeror's gross revenues and employed at least half of the offeror's permanent employees.

(d) If the offeror does not meet the criteria in paragraph (c) of this provision, factors to be considered in determining whether an offeror resides or primarily does business in the set-aside area include—

(1) Physical location(s) of the offeror's permanent office(s) and date any office in the set-aside area(s) was established;

(2) Current state licenses;

(3) Record of past work in the set-aside area(s) (*e.g.,* how much and for how long);

(4) Contractual history the offeror has had with subcontractors and/or suppliers in the set-aside area;

(5) Percentage of the offeror's gross revenues attributable to work performed in the set-aside area;

(6) Number of permanent employees the offeror employs in the set-aside area;

(7) Membership in local and state organizations in the set-aside area; and

(8) Other evidence that establishes the offeror resides or primarily does business in the set-aside area. For example, sole proprietorships may submit utility bills and bank statements.

(e) If the offeror represents it resides or primarily does business in the set-aside area, the offeror must furnish documentation to support its representation if requested by the Contracting Officer. The solicitation may require the offeror to submit with its offer documentation to support the representation.

(End of provision)

52.226–4 Notice of Disaster or Emergency Area Set-Aside.

As prescribed in 26.102–3(b), insert the following clause:

Notice of Disaster or Emergency Area Set-Aside (DATE)

(a) *Set-aside area.* Offers are solicited only from businesses residing or primarily doing business in _____
[Contracting Officer to fill in with definite geographic boundaries.] Offers received from other businesses will not be considered.

(b) This set-aside is in addition to any small business set-aside contained in this contract.

(End of clause)

52.226–5 Restrictions on Subcontracting Outside Disaster or Emergency Area.

As prescribed in 26.102–3(c), insert the following clause:

Restrictions on Subcontracting Outside Disaster or Emergency Area (DATE)

(a) *Definitions.* The definitions of cost of materials and subcontracting are found in the Small Business Administration regulations at 13 CFR 125.1.

(b) The Contractor agrees that in performance of the contract in the case of a contract for—

(1) *Services (except construction).* At least 50 percent of the cost of contract performance incurred for personnel must be expended for employees of the Contractor or employees of other businesses residing or primarily doing business in the area designated in the clause at FAR 52.226–4, Notice of Disaster or Emergency Area Set-Aside;

(2) *Supplies (other than procurement from a nonmanufacturer of such supplies).* The Contractor or employees of other businesses residing or primarily doing business in the set-aside area must perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials;

(3) *General construction.* The Contractor will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees or employees of other businesses residing or primarily doing business in the set-aside area; or

(4) *Construction by special trade Contractors.* The Contractor will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees or employees of other businesses residing or primarily doing business in the set-aside area.

(End of clause)

52.226–6 Promoting Excess Food Donation to Nonprofit Organizations.

As prescribed in 26.502–2, insert the following clause:

Promoting Excess Food Donation to Nonprofit Organizations (DATE)

(a) *Definitions.* As used in this clause—

Apparently wholesome food means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

Excess food means food that—

(1) Is not required to meet the needs of the agencies; and

(2) Would otherwise be discarded.

Food-insecure means inconsistent access to sufficient, safe, and nutritious food.

Nonprofit organization means any organization that is—

(1) Described in section 501(c) of the Internal Revenue Code of 1986; and

(2) Exempt from tax under section 501(a) of that Code.

(b) *Food donation.* The Contractor is encouraged to donate excess apparently wholesome food to nonprofit organizations that help food-insecure people in the United States, where practical and safe.

(c) *Costs.*

(1) The Contractor, including any subcontractors, must assume the responsibility for all the costs and logistics of collecting, transporting, maintaining the safety of, or distributing the excess, apparently wholesome food to the nonprofit organization(s) helping food-insecure people.

(2) Costs incurred for excess food donations are unallowable and, as such, the Contractor will not be reimbursed for any associated costs.

(d) *Liability.* The Government and the Contractor, including any subcontractors, will be exempt from civil and criminal liability to the extent provided under the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791). Nothing in this clause supersedes State or local health regulations (subsection (f) of 42 U.S.C. 1791).

(End of clause)

52.226–7 Drug-Free Workplace.

As prescribed in 26.603–1, insert the following clause:

Drug-Free Workplace (DATE)

(a) *Definitions.* As used in this clause—

Controlled substance means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11–1308.15.

Conviction means a finding of guilt (including a plea of *nolo contendere*) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

Drug-free workplace means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

Employee means an employee of a Contractor directly engaged in the performance of work under a Government contract. ''Directly engaged'' is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

Individual means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) *Contractor requirements.* The Contractor, if other than an individual, must within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration—

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an ongoing drug-free awareness program to inform such employees about—

(i) The dangers of drug abuse in the workplace;

(ii) The Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will—

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;

(5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice must include the position title of the employee;

(6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

(i) Taking appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

(7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.

(c) *Individual contractor requirements.* The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

(d) *Remedies for noncompliance.* In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 26.605–1, render the Contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.

(End of clause)

52.226–8 Encouraging Contractor Policies to Ban Text Messaging While Driving.

As prescribed in 26.701–2, insert the following clause:

Encouraging Contractor Policies To Ban Text Messaging While Driving (DATE)

(a) *Definitions.* As used in this clause—

Driving—

(1) Means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.

(2) Does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

Text messaging means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, emailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park.

(b) *Purpose.* This clause implements Executive Order 13513 of October 1, 2009, Federal Leadership on Reducing Text Messaging While Driving.

(c) *Contractor encouragement.* The Contractor is encouraged to—

(1) Adopt and enforce policies that ban text messaging while driving—

(i) Company-owned or rented vehicles or Government-owned vehicles; or

(ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

(2) Conduct initiatives in a manner commensurate with the size of the business, such as—

(i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(d) *Subcontracts.* The Contractor must include the substance of this clause, including this paragraph (d), in subcontracts at any tier under this contract if the value of the subcontract exceeds the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award, other than those for commercial products and commercial services.

(End of clause)

■ 11. Revise sections 52.237–1 through 52.237–10 to read as follows:

52.237–1 Site Visit.

As prescribed in 37.802–5(a), insert the following provision:

Site Visit (DATE)

Offerors or quoters should inspect the site where services are to be performed and to satisfy themselves regarding all general and local conditions that may affect the cost of contract performance, to the extent that the information is reasonably obtainable. In no event may failure to inspect the site constitute grounds for a claim after contract award.

(End of provision)

52.237–2 Protection of Government Buildings, Equipment, and Vegetation.

As prescribed in 37.802–5(b), insert the following clause:

Protection of Government Buildings, Equipment, and Vegetation (DATE)

The Contractor must use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor must replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor will be liable for the cost, which may be deducted from the contract price.

(End of clause)

52.237–3 Continuity of Services.

As prescribed in 37.802–5(c), insert the following clause:

Continuity of Services (DATE)

(a) The Contractor recognizes that the services under this contract are vital to the Government and must be continued without interruption and that, upon contract expiration, a successor, either the Government or another contractor, may continue them. The Contractor agrees to—

(1) Furnish phase-in training; and

(2) Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

(b) The Contractor must, upon the Contracting Officer's written notice, furnish phase-in, phase-out services for up to 90 days after this contract expires and negotiate a plan with a successor in good faith to determine the nature and extent of phase-in, phase-out services required. The plan must specify a training program and a date for transferring responsibilities for each division of work described in the plan and will be subject to the Contracting Officer's approval. The Contractor must provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

(c) The Contractor must allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also must disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor must release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

(d) If the Contracting Officer requires phase-in, phase-out services, the Government will reimburse the Contractor for that work. Reimbursement, including profit or fee as applicable, will be consistent with the contract type and limited to the approved transition period.

(e) In the event the period to exercise this option ends during a lapse in appropriations without the Government exercising any available option(s), the Government and Contractor may mutually agree to toll or extend the period of time by which the Government may exercise the option(s). The Contractor and Government must mutually agree to toll or extend the option's exercise time period not later than 30 days after the day the lapse in appropriations ends.

(End of clause)

52.237–4 Payment by Government to Contractor.

As prescribed in 37.701–4(a), insert the following clause:

Payment by Government to Contractor (DATE)

(a) In ____ [*insert* full *if Alternate I is used; otherwise insert* partial] consideration of the performance of the work called for in the Schedule, the Government will pay to the Contractor ____ [*fill in amount*].

(b) The Government must make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates approved by the Contracting Officer. Except as provided in paragraph (c) of this clause, in making progress payments the Contracting Officer must retain 10 percent of the estimated payment until final completion and acceptance of the contract work. However, if the Contracting Officer finds that the contractor achieved satisfactory progress during any period for which a progress payment is to be made, the Contracting Officer may authorize such payment in full, without retaining a percentage. Also, on completion and acceptance of each unit or division for which the price is stated separately, the Contracting Officer may authorize full payment for that unit or division without retaining a percentage.

(c) When the work is substantially completed, the Contracting Officer must retain an amount considered adequate for the protection of the Government and, at the Contracting Officer's discretion, may release all or a portion of any excess amount.

(d) In further consideration of performance, the Contractor will receive title to all property to be dismantled or demolished that the Government does not specifically designate as retained by the Government. The title will vest in the Contractor immediately upon the Government's issuing the notice of award, or, if a performance bond is required to be furnished after award, upon the Government's issuance of a notice to proceed with the work. The Government will not be responsible for the condition of, or any loss or damage to, the property. If the Contractor does not wish to remove any of the property acquired from the site, the Contracting Officer may, upon written request, grant the Contractor permission to leave the property on the premises. As a condition to the granting of this permission, the Contractor agrees to waive any right, title, claim, or interest in and to the property.

(e) Upon completion and acceptance of all work and receipt of a properly executed voucher, the Government will make final payment of the amount due the Contractor under this contract. If requested, the Contractor must release all claims against the Government arising under this contract, other than any claims the Contractor specifically excepts, in stated amounts, from operation of this release.

(End of clause)

Alternate I (DATE). If the contracting officer determines that the Government must retain all material resulting from the dismantling or demolition work, delete paragraph (d) from the basic clause and renumber the remaining paragraphs.

52.237–5 Payment by Contractor to Government.

As prescribed in 37.701–4(b), insert the following clause:

■ Payment by Contractor to Government (DATE)

(a) Title to all property to be dismantled, demolished, or removed under this contract vests in the Contractor, except for any property specifically designated in the Schedule as being retained by the Government. The title vests immediately upon the Government's issuing the notice of award, or, if a performance bond is required, upon the Government's issuing a notice to proceed with the work. The Government will not be responsible for the condition of, or any loss or damage to, the property.

(b) The Contractor must promptly remove from the site all property acquired by the Contractor. The Government must not permit storage of property on the site beyond the completion date. If the Contractor does not wish to remove from the site any of the property acquired, the Contracting Officer may, upon written request, grant the Contractor permission to leave the property on the premises. As a condition of the granting of the permission, the Contractor agrees to waive any right, title, claim, or interest in and to the property.

(c) The Contractor must perform the work called for under this contract and within ____ days of receipt of notice of award, unless otherwise provided in the Schedule and before proceeding with the work, must pay ____ [*fill in amount*]. Payment must be made to the office designated in the contract or as otherwise arranged with the Contracting Officer.

(End of clause)

52.237–6 Incremental Payment by Contractor to Government.

As prescribed in 37.701–4(c), insert the following clause:

Incremental Payment by Contractor to Government (DATE)

(a) The Contractor must pay the Government ____ [*Contracting Officer to fill in the amount*] before beginning work and may not begin work until that payment is made. Unless otherwise provided in the Schedule, the Contractor must begin work

within _____[[*Contracting Officer to fill in the days*] days after receipt of the notice of award. Thereafter, the Contractor must make further payment(s) to the Government in the amount and frequency specified in the Schedule. The Contractor will be responsible for any delays in contract performance resulting from late Contractor payments to the Government. Payment must be made to the office designated in the contract or as otherwise arranged with the Contracting Officer.

(b) The Contractor receives title to property in increments, as the Government receives each corresponding payment. The Contracting Officer will determine what property is fair and reasonable for each increment of payment. Upon receipt of the Contractor's final payment, title to any remaining property not previously transferred will vest in the Contractor, except for property specifically designated in the Schedule as retained by the Government. The Government will not be responsible for the condition of, or any loss or damage to, the property.

(c) The Contractor must promptly remove all property acquired by the Contractor from the site. The Government will not permit storage of property on the site beyond the completion date. If the Contractor does not wish to remove from the site any of the property acquired, the Contracting Officer may, upon written request, grant the Contractor permission to leave the property on the premises. As a condition of the granting of this permission, the Contractor agrees to waive any right, title, claim, or interest in and to the property.

(End of clause)

52.237–7 Indemnification and Medical Liability Insurance.

As prescribed in 37.601–3, insert the following clause:

Indemnification and Medical Liability Insurance (DATE)

(a) The parties agree and understand that this is a nonpersonal services contract, under which the professional services rendered by the Contractor are rendered in its capacity as an independent contractor. The Government may evaluate the quality of professional and administrative services provided, but retains no control over professional aspects of the services rendered, including by example, the Contractor's professional medical judgment, diagnosis, or specific medical treatments. The Contractor will be solely liable for and expressly agrees to indemnify the Government with respect to any liability producing acts or omissions by it or by its employees or agents. During the term of this contract, the Contractor must maintain liability insurance issued by a responsible insurance carrier of not less than the following amount(s) per specialty per occurrence: _____[*Contracting Officer to fill in the amount*]. However, if the Contractor is an entity or a subdivision of a State that either provides for self-insurance or limits the liability or the amount of insurance purchased by State entities, then the insurance requirement of this contract must be fulfilled by incorporating the provisions of the applicable State law.

(b) Prior to contract award, an apparently successful offeror, upon request by the Contracting Officer, must furnish evidence of its insurability concerning the medical liability insurance required by paragraph (a) of this clause or the provisions of State law as to self-insurance, or limitations on liability or insurance.

(c) Liability insurance may be on either an occurrences basis or on a claims-made basis. If the policy is on a claims-made basis, an extended reporting endorsement (tail) for a period of not less than 3 years after the end of the contract term must also be provided.

(d) The Contractor must provide evidence of insurance documenting the required coverage for each health care provider who will perform under this contract to the Contracting Officer prior to the commencement of services under this contract. If the insurance is on a claims-made basis and evidence of an extended reporting endorsement is not provided prior to the commencement of services, the Contractor must provide evidence of such endorsement to the Contracting Officer prior to the expiration of this contract. Final payment under this contract will be withheld until the Contractor provides evidence of the extended reporting endorsement to the Contracting Officer.

(e) The policies evidencing required insurance must also contain an endorsement to the effect that any cancellation or material change adversely affecting the Government's interest must not be effective until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer. If during the performance period of the contract the Contractor changes insurance providers, the Contractor must provide evidence that the Government will be indemnified to the limits specified in paragraph (a) of this clause, for the entire period of the contract, either under the new policy, or a combination of old and new policies.

(f) *Subcontracts.* The Contractor must—

(1) Include the substance of this clause, including this paragraph (f), in subcontracts at any tier under this contract that is for health care services, including commercial services;

(2) Require such subcontractors to provide evidence of and maintain insurance in accordance with paragraph (a) of this clause; and

(3) At least 5 days before the commencement of work by such subcontractor, furnish evidence of such insurance to the Contracting Officer.

(End of clause)

52.237–8 Restriction on Severance Payments to Foreign Nationals.

As prescribed in 37.802–5(d), insert the following provision:

Restriction on Severance Payments to Foreign Nationals (DATE)

(a) FAR 31.205–6(f)(6) limits the cost allowability of severance payments to foreign nationals employed under a service contract performed outside the United States unless the agency grants a waiver pursuant to FAR 37.802–3 before contract award.

(b) In making the determination concerning the granting of a waiver, the agency will determine that—

(1) The application of the severance pay limitations to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for members of the armed forces stationed or deployed outside the United States, or employees of an executive agency posted outside the United States;

(2) The Contractor has taken (or has established plans to take) appropriate actions within its control to minimize the amount and number of incidents of the payment of severance pay to employees under the contract who are foreign nationals; and

(3) The payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract, or is necessary to comply with a collective bargaining agreement.

(End of provision)

52.237–9 Waiver of Limitation on Severance Payments to Foreign Nationals.

As prescribed in 37.802–5(e), insert the following clause:

Waiver of Limitation on Severance Payments to Foreign Nationals (DATE)

(a) *Waiver.* Pursuant to 10 U.S.C. 3744(b) or 41 U.S.C. 4304(b)(1), as applicable, the cost allowability limitations in FAR 31.205–6(f)(6) are waived.

(b) *Subcontracts.* The Contractor may include the substance of this clause in each first-tier subcontract under this contract, other than those for commercial services, if approved by the Contracting Officer.

(End of clause)

52.237–10 Identification of Uncompensated Overtime.

As prescribed in 37.802–5(f), insert the following provision:

Identification of Uncompensated Overtime (DATE)

(a) *Definitions.* As used in this provision—

Adjusted hourly rate (including uncompensated overtime) is the rate that results from multiplying the hourly rate for a 40-hour work week by 40, and then dividing by the proposed hours per week which includes uncompensated overtime hours over and above the standard 40-hour work week. For example, 45 hours proposed on a 40-hour work week basis at $20 per hour would be converted to an uncompensated overtime rate of $17.78 per hour ($20.00 × 40 divided by 45 = $17.78).

Uncompensated overtime means the hours worked without additional compensation in excess of an average of 40 hours per week by direct charge employees who are exempt from the Fair Labor Standards Act. Compensated personal absences such as holidays, vacations, and sick leave must be

included in the normal work week for purposes of computing uncompensated overtime hours.

(b)(1) Whenever there is uncompensated overtime, the adjusted hourly rate (including uncompensated overtime), rather than the hourly rate, must be applied to all proposed hours, whether regular or overtime hours.

(2) The offeror must identify all proposed labor hours subject to the adjusted hourly rate (including uncompensated overtime) as either regular or overtime hours, by labor categories, and described at the same level of detail. This is applicable to all proposals whether the labor hours are at the prime or subcontract level. This includes uncompensated overtime hours that are in indirect cost pools for personnel whose regular hours are normally charged direct.

(c) The offeror's accounting practices used to estimate uncompensated overtime must be consistent with its cost accounting practices used to accumulate and report uncompensated overtime hours.

(d) Proposals that include unrealistically low labor rates, or that do not otherwise demonstrate cost realism, will be considered in a risk assessment and will be evaluated for award in accordance with that assessment.

(e) The offeror must include a copy of its policy addressing uncompensated overtime with its proposal.

(End of provision)

52.241 [Removed and Reserved]

■ 12. Remove and reserve section 52.241.

■ 13. Revise sections 52.241–1 through 52.241–13 to read as follows:

52.241–1 Electric Service Territory Compliance Representation.

As prescribed in 41.501(a), insert a provision substantially the same as the following:

Electric Service Territory Compliance Representation (DATE)

(a) Section 8093 of Public Law 100–202 generally requires purchases of electricity by any department, agency, or instrumentality of the United States to be consistent with State law governing the provision of electric utility service, including State utility commission rulings and electric utility franchises or service territories established pursuant to State statute, State regulation, or State-approved territorial agreements.

(b) By signing this offer, the offeror represents that this offer to sell electricity is consistent with Section 8093 of Public Law 100–202.

(End of provision)

52.241–2 Order of Precedence—Utilities.

As prescribed in 41.501(b)(1), insert a clause substantially the same as the following:

Order of Precedence—Utilities (DATE)

In the event of any inconsistency between the terms of this contract (including the specifications) and any rate schedule, rider, or exhibit incorporated in this contract by reference or otherwise, or any of the Contractor's rules and regulations, the terms of this contract control.

(End of clause)

52.241–3 Scope and Duration of Contract.

As prescribed in 41.501(b)(2), insert a clause substantially the same as the following:

Scope and Duration of Contract (DATE)

(a) For the period _____, [*contracting officer to insert period of service*] the Contractor agrees to furnish and the Government agrees to purchase _____ [*contracting officer to insert type of service*] utility service in accordance with the applicable tariff(s), rules, and regulations as approved by the applicable governing regulatory body and as set forth in the contract.

(b) It is expressly understood that neither the Contractor nor the Government is under any obligation to continue any service under the terms and conditions of this contract beyond the expiration date.

(c) The Contractor must, in the same manner that it customarily or regularly provides notice to its non-government customers, provide the Government with one complete set of rates, terms, and conditions of service which are in effect as of the date of this contract and any subsequently approved rates, which may specifically be satisfied by the Contractor publishing their rates on publicly available websites.

(d) The Contractor will be paid at the applicable rate(s) under the tariff and the Government will be liable for the minimum monthly charge, if any, specified in this contract commencing with the period in which service is initially furnished and continuing for the term of this contract. Any minimum monthly charge specified in this contract must be equitably prorated for the periods in which commencement and termination of this contract become effective.

(End of clause)

52.241–4 Change in Class of Service.

As prescribed in 41.501(b)(3), insert a clause substantially the same as the following:

Change in Class of Service (DATE)

(a) In the event of a change in the class of service, such service must be provided at the Contractor's lowest available rate schedule applicable to the class of service furnished.

(b) Where the Contractor does not have on file with the regulatory body approved rate schedules applicable to services provided, no clause in this contract precludes the Government and the Contractor from negotiating a rate schedule applicable to the class of service furnished.

(End of clause)

52.241–5 Contractor's Facilities.

As prescribed in 41.501(b)(4), insert a clause substantially the same as the following:

Contractor's Facilities (DATE)

(a) The Contractor, at its expense, unless otherwise provided for in this contract, must furnish, install, operate, and maintain all facilities required to furnish service hereunder, and measure such service at the point of delivery specified in the Service Specifications. Title to all such facilities remain with the Contractor and the Contractor is responsible for loss or damage to such facilities, except that the Government will be responsible to the extent that loss or damage has been caused by the Government's negligent acts or omissions.

(b) Notwithstanding any terms expressed in this clause, the Contractor must obtain approval from the Contracting Officer prior to any equipment installation, construction, or removal. The Government hereby grants to the Contractor, free of any rental or similar charge, but subject to the limitations specified in this contract, a revocable permit or license to enter the service location for any proper purpose under this contract. This permit or license includes use of the site or sites agreed upon by the parties hereto for the installation, operation, maintenance, and repair of the facilities of the Contractor required to be located upon Government premises. All applicable taxes and other charges in connection therewith, together with all liability of the Contractor in construction, operation, maintenance and repair of such facilities, are the obligation of the Contractor.

(c) Authorized representatives of the Contractor will be allowed access to the facilities on Government premises at reasonable times to perform the obligations of the Contractor regarding such facilities. It is expressly understood that the Government may limit or restrict the right of access herein granted in any manner considered necessary (*e.g.,* national security, public safety).

(d) Unless otherwise specified in this contract, the Contractor must, at its expense, remove such facilities and restore Government premises to their original condition as near as practicable within a reasonable time after the Government terminates this contract. In the event such termination of this contract is due to the fault of the Contractor, such facilities may be retained in place at the option of the Government for a reasonable time while the Government attempts to obtain service elsewhere comparable to that provided for hereunder.

(End of clause)

52.241–6 Service Provisions.

As prescribed in 41.501(b)(5), insert a clause substantially the same as the following:

Service Provisions (DATE)

(a) *Measurement of service.* (1) All service furnished by the Contractor must be measured by suitable metering equipment of standard manufacture, to be furnished, installed, maintained, repaired, calibrated, and read by the Contractor at its expense. When more than a single meter is installed at a service location, the readings thereof may

be billed conjunctively, if appropriate. In the event any meter fails to register (or registers incorrectly) the service furnished, the Government and Contractor must agree upon the length of time of meter malfunction and the quantity of service delivered during such period of time. An appropriate adjustment must be made by the Contractor to the next invoice for the purpose of correcting such errors. However, any meter which registers not more than ____ [*contracting officer to insert percentage variance*] percent slow or fast is deemed correct.

(2) The Contractor must read all meters at periodic intervals of approximately 30 days or in accordance with the policy of the cognizant regulatory body or applicable bylaws. All billings based on meter readings of less than ____ [*contracting officer to insert number of days*] days must be prorated accordingly.

(b) *Meter test.* (1) The Contractor, at its expense, must periodically inspect and test Contractor-installed meters at intervals not exceeding ____ [*contracting officer to insert years*] year(s). The Government has the right to have representation during the inspection and test.

(2) At the written request of the Contracting Officer, the Contractor must make additional tests of any or all such meters in the presence of Government representatives. The cost of such additional tests will be borne by the Government if the percentage of errors is found to be not more than ____ [*contracting officer to insert percentage variance*] percent slow or fast.

(3) No meter may be placed in service or allowed to remain in service which has an error in registration in excess of ____ [*contracting officer to insert percentage variance*] percent under normal operating conditions.

(c) *Change in volume or character.* Reasonable notice will be given by the Contracting Officer to the Contractor regarding any material changes anticipated in the volume or characteristics of the utility service required at each location.

(d) *Continuity of service and consumption.* The Contractor must use reasonable diligence to provide a regular and uninterrupted supply of service at each service location, but will not be liable for damages, breach of contract or otherwise, to the Government for failure, suspension, diminution, or other variations of service occasioned by or in consequence of any cause beyond the control of the Contractor, including but not limited to acts of God or of the public enemy, fires, floods, earthquakes, or other catastrophe, strikes, or failure or breakdown of transmission or other facilities. If any such failure, suspension, diminution, or other variation of service, in the aggregate is more than ____ [*contracting officer to insert amount of hours*] hour(s) during any billing period hereunder, an equitable adjustment must be made by the Contractor in the monthly billing specified in this contract (including the minimum monthly charge).

(End of clause)

52.241–7 Change in Rates or Terms and Conditions of Service for Regulated Services.

As prescribed in 41.501(c)(1), insert a clause substantially the same as the following:

Change in Rates or Terms and Conditions of Service for Regulated Services (DATE)

(a) This clause applies to the extent services furnished under this contract are subject to regulation by a regulatory body. The Contractor agrees to give *_____ written notice to the Contracting Officer, in the same manner that it customarily or regularly provides notice to its non-government customers, of the filing of an application for change in rates or terms and conditions of service concurrently with the filing of the application and of any changes pending with the regulatory body as of the date of contract award. If, during the term of this contract, the regulatory body having jurisdiction approves any changes, the Contractor must forward to the Contracting Officer a copy of any documentation of such changes that it customarily or regularly provides to its non-government customers within 15 days after the effective date thereof. The Contractor agrees to continue furnishing service under this contract in accordance with the amended tariff, and the Government agrees to pay for such service at the higher or lower rates as of the date when such rates are made effective.

(b) The Contractor agrees that throughout the life of this contract the applicable published and unpublished rate schedule(s) cannot be in excess of the lowest cost published and unpublished rate schedule(s) available to any other customers of the same class under similar conditions of use and service.

(c) In the event that the regulatory body promulgates any regulation concerning matters other than rates which affects this contract, the Contractor must immediately provide a copy to the Contracting Officer in the same manner that it customarily or regularly provides to its non-government customers. The Government is not bound to accept any new regulation inconsistent with Federal laws or regulations.

(d) Any changes to rates or terms and conditions of service must be made a part of this contract by the issuance of a unilateral contract modification by the Government, unless otherwise specified in the contract. The effective date of the change is the effective date by the regulatory body. Any factors not governed by the regulatory body will have an effective date as agreed to by the parties.

(End of clause)

*** Note:** Insert language prescribed in 41.501(c)(1).

52.241–8 Change in Rates or Terms and Conditions of Service for Unregulated Services.

As prescribed in 41.501(c)(2), insert a clause substantially the same as the following:

Change in Rates or Terms and Conditions of Service for Unregulated Services (DATE)

(a) This clause applies to the extent that services furnished hereunder are not subject to regulation by a regulatory body.

(b) After _____ [*contracting officer to insert date*], either the Government or the Contractor may request a change in rates or terms and conditions of service, unless otherwise provided in this contract. Both the Government and the Contractor agree to enter in negotiations concerning such changes upon receipt of a written request detailing the proposed changes and specifying the reasons for the proposed changes.

(c) The effective date of any change is as agreed to by the Government and the Contractor. The Contractor agrees that throughout the life of this contract the rates so negotiated will not be in excess of published and unpublished rates charged to any other customer of the same class under similar terms and conditions of use and service.

(d) The failure of the Government and the Contractor to agree upon any change after a reasonable period of time is a dispute under the Disputes clause of this contract.

(e) Any changes to rates, terms, or conditions as a result of such negotiations must be made a part of this contract by the issuance of a bilateral contract modification.

(End of clause)

52.241–9 Connection Charge.

As prescribed in 41.501(c)(3), insert a clause substantially the same as the following:

Connection Charge (DATE)

(a) *Charge.* In consideration of the Contractor furnishing and installing at its expense the new connection facilities described herein, the Government will pay the Contractor a connection charge. The payment will be in the form of progress payments, advance payments or as a lump sum, as agreed to by the Government and the Contractor, and as permitted by applicable law. The total amount payable is the lower of either: the estimated cost of $____ [*contracting officer to insert dollar amount]* less the agreed to salvage value of $____ [*contracting officer to insert dollar amount*], or the actual cost less the salvage value. As a condition precedent to final payment, the Contractor must execute a release of any claims against the Government arising under or by the virtue of such installation.

(b) *Ownership, operation, maintenance and repair of new facilities to be provided.* The facilities to be supplied by the Contractor under this clause, notwithstanding the payment by the Government of a connection charge, are the property of the Contractor and must, at all times during the life of this contract or any renewals thereof, be operated, maintained, and repaired by the Contractor at its expense. All taxes and other charges in connection therewith, together with all liability arising out of the construction, operations, maintenance, or repair of such facilities, are the obligation of the Contractor.

(c) *Credits.* (1) The Contractor agrees to allow the Government, on each monthly bill for service furnished under this contract to the service location, a credit of ____ [*contracting officer to insert percentage*] percent of the amount of each such bill as rendered until the accumulation of credits equals the amount of such connection charge, provided that the Contractor may at any time allow a credit up to 100 percent of the amount of each such bill.

(2) In the event the Contractor, before any termination of this contract but after completion of the facilities provided for in this clause, serves any customer other than the Government (regardless of whether the Government is being served simultaneously, intermittently, or not at all) by means of these facilities, the Contractor must promptly notify the Government in writing. Unless otherwise agreed by the Government and the Contractor in writing at that time, the Contractor must promptly accelerate the credits provided for under paragraph (c)(1) of this clause, up to 100 percent of each monthly bill until there is refunded the amount that reflects the Government's connection costs for that portion of the facilities used in serving others.

(3) In the event the Contractor terminates this contract, or defaults in performance, prior to full credit of any connection charge paid by the Government, the Contractor must pay to the Government an amount equal to the uncredited balance of the connection charge as of the date of the termination or default.

(d) *Termination before completion of facilities.* The Government reserves the right to terminate this contract at any time before completion of the facilities with respect to which the Government is to pay a connection charge. In the event the Government exercises this right, the Contractor will be paid the cost of any work accomplished, including direct and indirect costs reasonably allocable to the completed work prior to the time of termination by the Government, plus the cost of removal, less the salvage value.

(e) *Termination after completion of facilities.* In the event the Government terminates this contract after completion of the facilities with respect to which the Government has paid a connection charge, but before the crediting in full by the Contractor of any connection charge in accordance with the terms of this contract, the Contractor has the following options:

(1) To retain in place for _____ [*contracting officer to insert number of months*] months after the notice of termination by the Government such facilities on condition that—

(i) If, during such _____ [*contracting officer to insert number of months*] month period, the Contractor serves any other customer by means of such facilities, the Contractor, must, in lieu of allowing credits, pay the Government during such period installments in like amount, manner, and extent as the credit provided for under paragraph (c) of this clause before such termination; and

(ii) Immediately after such _____ [*contracting officer to insert number of months*] month period the Contractor must promptly pay in full to the Government the uncredited balance of the connection charge.

(2) To remove such facilities at the Contractor's own expense within _____ [*contracting officer to insert number of months*] months after the effective date of the termination by the Government. If the Contractor elects to remove such facilities, the Government has the option of purchasing such facilities at the agreed salvage value set forth herein; and provided further, that the Contractor must, at the direction of the Government, leave in place such facilities located on Government property which the Government elects to purchase at the agreed salvage value.

(End of clause)

Alternate I (DATE). If the Contracting Officer determines that a nonrefundable charge is to be paid and no credits are due the Government, delete paragraphs (c) and (e), renumber paragraph (d) as (c) and add the following as paragraph (d):

(d) *Termination after completion of facilities.* In the event the Government terminates this contract after completion of the facilities with respect to which the Government is to pay a connection charge, the Contractor has the following options:

(1) To retain in place for _____ [*contracting officer to insert number of months*] months after the notice of termination by the Government. If the Contractor and the Government have not agreed on terms for retention in place beyond _____ [*contracting officer to insert number of months*] months, then the Contractor must remove the facilities pursuant to the terms of paragraph (d)(2) of this clause.

(2) To remove such facilities at the Contractor's own expense within _____ [*contracting officer to insert number of months*] months after the effective date of the termination by the Government. If the Contractor elects to remove such facilities, the Government then has the option of purchasing such facilities at the agreed salvage value set forth herein; and provided further, that the Contractor must, at the direction of the Government, leave in place such facilities located on Government property which the Government elects to purchase at the agreed salvage value.

52.241–10 Termination Liability.

As prescribed in 41.501(c)(4), insert a clause substantially the same as the following:

Termination Liability (DATE)

(a) *General.* If the Government discontinues utility service under this contract before completion of the facilities cost recovery period specified in paragraph (b) of this clause, in consideration of the Contractor furnishing and installing at its expense, the new facility described herein, the Government will pay termination charges, calculated as set forth in this clause.

(b) *Facility cost recovery period.* The period of time, not exceeding the term of this contract, during which the net cost of the new facility, will be recovered by the Contractor is—

_____ months. [*Contracting officer to insert negotiated duration.*]

(c) *Net facility cost.* The cost of the new facility, less the agreed upon salvage value of such facility, is—

$_____. [*Contracting officer to insert appropriate dollar amount.*]

(d) *Monthly facility cost recovery rate.* The monthly facility cost recovery rate which the Government will pay the Contractor whether or not service is received is—

$_____. [*Divide the net facility cost in paragraph (c) of this clause by the facility's cost recovery period in paragraph (b) of this clause and insert the resultant figure.*]

(e) *Termination charges.* Termination charges = $[*Multiply the remaining months of the facility's cost recovery period specified in paragraph (b) of this clause by the monthly facility cost recovery rate in paragraph (d) of this clause and insert the resultant figure.*]

(f) *Effect of capital costs recovery.* If the Contractor has recovered its capital costs at the time of termination there will be no termination liability charge.

(End of clause)

52.241–11 Multiple Service Locations.

As prescribed in 41.501(c)(5), insert a clause substantially the same as the following:

Multiple Service Locations (DATE)

(a) At any time by written order, the Contracting Officer may designate any location within the service area of the Contractor at which utility service must commence or be discontinued. Any changes to the service specifications must be made a part of the contract by the issuance of a bilateral contract modification to include the name and location of the service, specifying any different rate, the point of delivery, different service specifications, and any other terms and conditions.

(b) The applicable monthly charge specified in this contract must be equitably prorated from the period in which commencement or discontinuance of service at any service location designated under the Service Specifications is effective.

(End of clause)

52.241–12 Nonrefundable, Nonrecurring Service Charge.

As prescribed in 41.501(c)(6), insert a clause substantially the same as the following:

Nonrefundable, Nonrecurring Service Charge (DATE)

As provided herein, the Government will pay a nonrefundable, nonrecurring charge when the rules and regulations of a Contractor require that a customer pay: a charge for the initiation of service, a contribution in aid of construction, or a nonrefundable membership fee. This charge may be in addition to or in lieu of a connection charge. Therefore, there is hereby

added to the Contractor's schedule a nonrefundable, nonrecurring charge for _____ [*contracting officer to insert type of nonrecurring charge*] in the amount of $_____ [*contracting officer to insert dollar amount*] dollars payable.

(End of clause)

52.241–13 Cooperative Membership.

As prescribed in 41.501(c)(7), insert a clause substantially the same as the following:

Cooperative Membership (DATE)

The performance of this contract includes the requirement that the Contractor must follow the bylaws of [_____ [*contracting officer to insert cooperative name*].

(End of clause)

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Part V

Office of Management and Budget

Office of Federal Procurement Policy

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 5, 24, 29, et al.

Federal Acquisition Regulation: Revolutionary Federal Acquisition Regulation Overhaul Parts 5, 24, and 29; Proposed Rule

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 5, 24, 29, and 52

[FAR Case 2026–005, Docket No. FAR–2026–0005, Sequence No. 1]

RIN 9000–AO90

Federal Acquisition Regulation: Revolutionary Federal Acquisition Regulation Overhaul Parts 5, 24, and 29

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB); Department of Defense (DoD); General Services Administration (GSA); and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: OFPP, DoD, GSA, and NASA (collectively referred to as the Federal Acquisition Regulatory Council or FAR Council) are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 14275, Restoring Common Sense to Federal Procurement. The E.O. directs the elimination of excessive acquisition regulations to stop the inefficient use of American taxpayer dollars. The FAR Council is issuing twelve proposed rules that collectively will streamline the FAR in its entirety. This rule proposes revisions to FAR parts 5, 24, 29, and 52.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before July 23, 2026, to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2026–005 to the Federal eRulemaking portal at *https://www.regulations.gov.* Follow the instructions for sending comments.

Instructions: Please submit comments only and cite ''FAR Case 2026–005'' in all correspondence related to this case. Include your name, company name (if any), and ''FAR Case 2026–005'' on any attached document. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. Public comments may be submitted as an individual, as an organization, or anonymously (see frequently asked questions at *https://www.regulations.gov/faq*). To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov/FAR-2026-005.*

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact *FARpolicy@gsa.gov* or call 202–969–4075 and cite ''FAR Case 2026–005.'' For information pertaining to status, publication schedules, or alternate instructions for submitting comments if *https://www.regulations.gov* cannot be used, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite ''FAR Case 2026–005.''

SUPPLEMENTARY INFORMATION:

I. Background

E.O. 14275, Restoring Common Sense to Federal Procurement (April 15, 2025), resets the foundation for Federal buying by requiring the FAR Council to produce a streamlined FAR that is simpler, clearer, and structured for speed. According to the E.O., the FAR has evolved from its original purpose (*i.e.,* to establish uniform procedures across executive departments and agencies), into an excessive and overcomplicated regulatory framework and bureaucracy. While meant to ''deliver, on a timely basis, the best value product or service to the customer, while maintaining the public's trust and fulfilling public policy objectives,'' the FAR has become an expensive barrier to achieving those objectives. As a result, the E.O. directed the FAR Council and OMB to create an agile, effective, and efficient regulation that contains only provisions required by statute or essential to sound procurement.

To implement E.O. 14275, OMB issued Memorandum M–25–26, Overhauling the Federal Acquisition Regulation, which announced the ''Revolutionary FAR Overhaul'' (RFO) and created a roadmap for producing simpler regulations aligned to statute, rewritten in plain language, and including nonstatutory requirements that are necessary to conducting a sound procurement. The memorandum described a new streamlined vision for the FAR, to be maintained alongside nonregulatory governmentwide guidance to provide a common-sense authoritative foundation for nimble response and delivery of mission capability.

This new vision represents a paradigm shift where over-engineered regulations designed for paperwork and compliance are replaced with streamlined regulations focused on core stewardship principles and nonregulatory guidance that will be used in concert with the streamlined FAR focused on proven buying strategies, critical thinking, market awareness (including to expand awareness of goods, products, and materials offered in the United States), and risk literacy to enhance workforce problem-solving. The significant reduction of unnecessary mandates is intended to clarify and reinforce the contracting officer's discretion to determine the best way to apply policies and practices. The newly established, nonregulatory guidance, which has been inspired by acquisition innovation advocates, category managers, other experienced practitioners, and many years of feedback from the contractor community—is expected to facilitate contracting officers' use of their discretion more efficiently and effectively to make smarter buying decisions.

OMB Memorandum M–25–26 also directed the FAR Council to complete the regulatory overhaul in two phases, each with robust public input. The FAR Council conducted its phase one effort in fiscal year 2025 by issuing model class deviations to replace each part in the FAR until such time as formal rulemaking occurred. This proposed rule is one of a series that constitute the FAR Council's phase two effort to obtain public comment through formal rulemaking.

II. Discussion and Analysis

A summary of proposed changes to existing FAR parts 5, 24, and 29, and their corresponding provisions and clauses in part 52 follows:

A. General

1. General RFO Updates

This proposed rule generally reorganizes the FAR parts into phases of acquisition and simplifies the text into plain language, where possible. The plain language efforts include changes to active voice, edits to improve readability, and reorganization to present information more logically. None of the plain language edits are intended to change existing FAR requirements. The rewriting of the entire FAR also required edits to harmonize the changes being proposed

such as updating the cross-references. This aligns with the Federal plain language guidelines as directed by the Plain Writing Act of 2010 (5 U.S.C. 301 note).

2. Standardization of Prescriptions

This rule proposes revisions to standardize prescriptions for provisions and clauses. These changes are intended to provide better clarity around the applicability of provisions and clauses such as whether they apply to commercial products and services.

3. Use of ''Must'' Instead of ''Shall''

Additional revisions are being proposed throughout the FAR text and FAR provisions and clauses to replace the use of the term ''shall'' with ''must'' or ''will,'' as appropriate, to impose requirements.

4. Non-statutory Requirements

Section 4 of the E.O. required amendments to the FAR to ensure it contains only provisions that are required by statute or that are otherwise necessary to support simplicity and usability, strengthen the efficacy of the procurement system, or protect economic or national security. The FAR Council reviewed all non-statutory requirements to determine if they are still relevant and essential to sound procurement in today's contracting environment based on the criteria from section 4 of the E.O. The proposed rule retains non-statutory requirements that further one or more of the elements of sound procurements, including those requirements that serve as guardrails to protecting taxpayer interests and promote taxpayer confidence in the procurement system. Non-statutory requirements that were beneficial but not essential were retained in the non-regulatory guidance documents. Other non-statutory requirements that did not meet these standards, were removed. The Council considered the extent to which regulation is the most efficient means for capturing the benefit of the policy. For example, most ''how to'' requirements were found to be more appropriately suited for non-regulatory coverage which better enables a contracting officer to use discretion in determining the application of a strategy to a given situation and limits the risk of overapplication, which can create wasteful burden on the contracting parties.

As part of the RFO, the FAR Council has created a number of non-regulatory resources, including the FAR Companion, which provides insight from experienced practitioners across the government on using more streamlined practices and processes. The migration of significant coverage to non-regulatory guidance is intended to ensure that the benefits of the policy are not outweighed by the compliance burden of a more rigidly written regulation that is prone to application in an overly broad manner. This approach was explained to the public in a set of ''frequently asked questions'' that were posted on the Revolutionary FAR Overhaul homepage shortly after the initiative was launched.

B. Summary of Changes to FAR Part 5, Publicizing Noncommercial Contract Actions

1. Reorganize Into Lifecycle-Based Subparts

FAR part 5 is reorganized into three subparts aligned to the phases of an acquisition: Subpart 5.1, Presolicitation; Subpart 5.2, Solicitation; and Subpart 5.3, Award, as follows:

Existing FAR reference	*Proposed FAR reference*
5.1 Dissemination of Information	5.1 Presolicitation.
5.2 Synopses of Proposed Contract Actions	5.2 Solicitation.
5.3 Synopses of Contract Award	5.3 Award.
5.4 Release of Information	Removed.
5.5 Paid Advertisements	5.102.
5.6 Publicizing Multi-Agency Use Contracts	Removed.
5.7 Publicizing Requirements Under the ARRA	Removed.

This restructuring improves navigability, presents requirements in chronological order, and enhances usability without altering the underlying statutory obligations. The revision replaces dense narrative paragraphs with a clear sequence of actions for contracting officers when publicizing noncommercial contract actions.

2. Retain Statutorily Based Requirements

Consistent with Executive Order No. 14275, Restoring Common Sense to Federal Procurement, the rule retains all statutory requirements governing publicizing noncommercial contract actions, including 5 U.S.C. 552, 15 U.S.C. 637(e), 637(k), 637b, 644, and 41 U.S.C. 1708, among others. These authorities establish the minimum notice and transparency standards across presolicitation, solicitation, and award phases.

3. Posting Requirements Presented in Standardized Tables

New tables 5–1, 5–2, 5–3, and 5–4 present posting content and minimum timeframes in a standardized, visual format. The tables clarify when and how presolicitation notices, solicitation notices, and award notices must be posted, and identify trade agreement implications where applicable. This replaces fragmented narrative sections with concise, actionable matrices to reduce ambiguity and improve compliance.

The standardized tables in Part 5 reflect the statutory framework in 41 U.S.C. 1708 and incorporate recent FAR inflation adjustments. Specifically, the $20,000–$25,000 tier in Tables 5–2 and 5–3 aligns with the long-standing distinction between the lower ''posting/display'' tier and the higher ''publish/synopsis'' tier. The lower bound was raised from $15,000 to $20,000 under Federal Acquisition Circular (FAC) 2025–06, and the tables now mirror FAR 5.101(a) to ensure consistency. Additionally, the tables clarify that the ''10 days'' requirement refers to the minimum posting duration, not a pre-issuance lead time.

The first row of Table 5–3 is revised to align with the $20,000 threshold, eliminating inconsistencies and ensuring that posting requirements are clear across all bands. Minor clarity edits such as renaming the timing column to ''Minimum Timing'' and specifying that reductions to 10 days are at the contracting officer's discretion further improve usability and compliance.

4. Updates for Clarity and Useability

Section 5.000, Scope of Part, is updated to explicitly reaffirm that public notices are posted in the Governmentwide Point of Entry (GPE). This edit clarifies the authoritative platform for Federal notices and ensures consistent practice across agencies.

Section 5.001, Definitions, streamlines the definition of ''Contract Action'' and adds precise definitions such as ''Notice'' and ''Presolicitation Notice.'' These updated definitions support consistent applications across the lifecycle subparts and align with the new streamlined requirements. Section 5.002, Policy, is edited to more directly convey the purpose of publicizing noncommercial actions using plain language and removing dated phrasing. This refinement aligns with modern outreach practices while preserving statutory objectives.

5. Remove Obsolete and Duplicative Sections

The revision to FAR part 5 eliminates provisions that are obsolete, duplicative, or non-statutory in nature. These revisions include removal of subpart 5.4, Release of Information, which was largely duplicative of the general posting guidance throughout the part; subpart 5.6, Publicizing Multi-Agency Use Contracts, which was duplicative and outdated; subpart 5.7, Publicizing Requirements Under the American Recovery and Reinvestment Act of 2009 (ARRA), which was removed as the funds appropriated for ARRA have expired. Additionally, the term ''synopsis'' has been retired.

6. Move All References Related to Commercial Acquisitions to FAR Part 12

All requirements related to commercial acquisitions are relocated from FAR part 5 to FAR part 12. This consolidation eliminates confusion caused by scattered references. Moving these provisions ensures that all commercial acquisition policies are housed in one location. As a result of this change, section 5.000, Scope of Part, is updated to direct the reader to FAR part 12 for information about commercial acquisitions. Additionally, section 5.101(c)(4)(ii) and tables 5–2 and 5–3 have been updated to remove instructions related to commercial acquisitions. These updates improve clarity, reduce the risk of inconsistent application, and simplify training and long-term maintenance of the regulation.

7. Clarify Exception for National Security

Language in section 5.101, Presolicitation Notice, is revised to clarify that, even when an agency relies on the national security authority at FAR 6.103–6, posting a presolicitation notice remains required unless posting the notice would itself reveal sensitive information. This change improves transparency by encouraging notice to the maximum extent practicable, while clearly preserving the ability to withhold notice when disclosure would compromise national security. It will provide contracting officers clearer guidance, reduce inconsistent application of the exception, and better align FAR part 5 with statutory intent by balancing openness with legitimate security concerns.

8. Update Presolicitation Notice Thresholds at FAR 5.101, Table 5–2

The proposed rule updates thresholds used in FAR 5.101, Table 5–2, to determine the minimum posting timeframes for presolicitation notices. This change reflects statutory inflation adjustments and aligns the posting tiers with current trade agreement structures and historic escalation factors. Specifically, the threshold for the lower tier is increased from $25,000 to $45,000. The previous $25,000 value derived from the former Canadian threshold under the North American Free Trade Agreement (NAFTA), which no longer applies. The $25,000 threshold derives from statutory authorities implemented at FAR 9.403–2(b) and FAR 13.402(a), both of which originated prior to 2000 and are therefore subject to application of a full inflation factor of 1.8436. Applying this escalation factor increases the original $25,000 amount to $45,000. This change reduces ambiguity, ensures consistency with inflation adjustments across the FAR, and enhances transparency while maintaining statutory notice requirements.

9. Clarify and Expand Exemptions to Posting Solicitation Notices

The rule updates language in section 5.201, Solicitation Notice, to clearly identify circumstances when a solicitation does not need to be posted to the GPE. The updated language explains that posting is not required when a presolicitation notice was not required under FAR 5.101(b), except when the exemption at 5.101(b)(1)(i) applies; when a presolicitation notice was posted for a proposed contract action the Government intends to solicit and negotiate with only one source under the authority of 6.103; or when a presolicitation notice was posted for a proposed contract action valued at or below the simplified acquisition threshold that the Government intends to solicit and negotiate with only one source under FAR 13.101 or solicit directly from at least three sources under FAR 13.201. These clarifications help contracting officers apply the posting requirements consistently, reduce unnecessary duplication, and maintain transparency while supporting streamlined acquisition practices.

10. Clarify the Timing and Process for Announcing Contract Awards Over $5.5 Million

Section 5.302, Public Announcement, is revised to clarify the timing and process for announcing significant contract awards. Although this requirement is not mandated by statute, it is retained because it promotes transparency, public awareness, and consistency in the procurement process. However, the language is updated to make this provision permissive rather than mandatory. Agencies may publicly announce significant contract awards, rather than being required to do so, allowing flexibility while still encouraging practices that reinforce fairness and accountability. Public announcement under this section remains distinct from the automated posting to the GPE and may be accomplished through any method the agency deems appropriate, such as press releases or official websites. Additionally, the threshold for public announcement is increased from $4.5 million to $5.5 million to align with inflation adjustments implemented under FAC 2025–06.

C. Summary of Changes to FAR Part 24, Protection of Privacy and Freedom of Information

1. Retain Statutorily Based Requirements

FAR part 24 continues to provide essential protections for privacy and freedom of information. The RFO deviation retains all statutory requirements and executive directives, including 5 U.S.C. 552, Freedom of Information Act; 5 U.S.C. 552a, Privacy Act of 1974; 5 U.S.C. 574, Confidentiality; 10 U.S.C. 3309 and 41 U.S.C. 4702, Prohibition on Release of Contractor Proposals; 10 U.S.C. 3705 and 41 U.S.C. 3505, Submission of Other Information; and OMB Circular A–130, Managing Information as a Strategic Resource. These authorities remain the foundation of Part 24 and ensure compliance with governmentwide privacy and disclosure standards.

2. Remove Duplicative Sections

The revision to FAR part 24 eliminates non-statutory, duplicative, and outdated content. Specifically, section 24.301, Privacy Training, was deleted, as it was duplicative of content found in clause 52.224–3, Privacy Training. This revision ensures that FAR part 24 focuses exclusively on

statutory requirements and essential governmentwide standards, consistent with the policy objective to eliminate non-essential content and improve useability. Additionally, 24.102(c) has been removed as it was duplicative with 24.102(a). This change ensures consistency with the Privacy Act and eliminates ambiguity regarding contractor obligations. Finally, 24.102(d) was renumbered and revised to clarify the scope of civil liability for agencies when contractors handle systems of records. This change eliminates ambiguity regarding contractors performing design, development, or other activities that do not involve operating such systems.

D. Summary of Changes to FAR Part 29, Taxes

1. Retain Statutorily Based Requirements

The updates to FAR part 29 preserve all statutory and treaty-based requirements governing Federal tax obligations in procurement. This includes provisions implementing 26 U.S.C. (Internal Revenue Code), state and local tax exemptions under 40 U.S.C. 501, and applicable international agreements. These retained requirements ensure continued compliance with Federal tax law and reciprocal tax arrangements for Government contracts.

2. Remove Obsolete and Duplicative Sections

The revision eliminates outdated and non-statutory text that was informational in nature and did not impose enforceable requirements on contracting officers or contractors. Specifically, narrative guidance in section 29.101 was removed, as this content summarized IRS procedures for obtaining tax exemption certificates and interacting with IRS offices. Information in FAR 29.304 regarding special consideration matters is removed, with content regarding North Carolina taxes now reflected in Section 29.303. Additionally, FAR 29.402–4, Prescribing Tax Requirements for Foreign Contracts in Afghanistan has been removed in its entirety because the Status of Forces Agreement (SOFA) expired in 2021. Clauses prescribed in that section were also removed, including 52.229–13, Taxes—Foreign Contracts in Afghanistan; and 52.229–14, Taxes—Foreign Contracts in Afghanistan (North Atlantic Treaty Organization Status of Forces Agreement). Additionally, the definitions of North Atlantic Treaty Organization (NATO) Forces and U.S. Forces in Afghanistan have been removed for the reasons noted above.

3. Clarification of Federal Excise Tax References

Section 29.201(a), Federal Excise Taxes, is revised to clarify the scope of applicable statutory and regulatory provisions. The previous language referenced ''26 U.S.C. 4041 *et seq.*'' and ''26 CFR parts 40 through 299,'' which could be interpreted as overly narrow or overly broad. The updated text acknowledges that Subtitle D of the Internal Revenue Code spans multiple subchapters and that other statutory and regulatory provisions may apply, while retaining a general reference to the primary excise tax requirements. This change improves accuracy and reduces potential confusion without altering the underlying policy.

4. FAR 29.3 Definition

The definition of ''State and Local Taxes'' has been relocated from FAR part 2 to subpart 29.3 because the term is only used in part 29. This change improves clarity and organization by placing the definition within the subpart where it is applied. As a result of this relocation, paragraphs in subpart 29.3 have been renumbered to maintain proper sequence. Coordination with GSA will ensure removal of the definition from part 2 to avoid duplication.

5. FAR 29.304(b) Evidence of exemption

This change clarifies that a Government Purchase or Fleet Card is acceptable evidence to support a claim for exemption from state or local taxes. This change will reduce confusion, promote consistent documentation, and make it easier for agencies to validate and justify tax exemptions.

E. Summary of Changes to FAR Part 52, Contract Clauses

1. Plain Language Update

As part of the broader plain language initiative, the term ''shall'' has been replaced with ''must'' throughout all affected clauses and prescriptions in this rulemaking to promote clarity and consistency. These updates will streamline contract drafting and compliance, reduce ambiguity, and save time for both contracting officers and contractors.

2. Clarification of FAR Clause Applicability to Commercial Products and Commercial Services

This rule clarifies the applicability of FAR part 52 clause prescriptions to commercial acquisitions to ensure consistent treatment across the FAR. Conforming revisions were made to prescriptions associated with FAR parts 24 and 29 to accurately reflect when clauses apply to commercial products and commercial services. Affected prescriptions include those at 24.104, 24.302, 29.401–1, 29.401–2, 29.401–3, 29.401–4, 29.402–1, 29.402–2, and 29.402–3. In addition, clauses at 52.224–2 and 52.224–3 were revised to clarify subcontract applicability to commercial products and commercial services.

3. Part 52 Renumbering

As a result of the RFO, the FAR Council is considering establishing a new FAR subpart in part 52 and relocating and renumbering all provisions and clauses under this new subpart. This means, if subpart 52.4 was used, all provisions and clauses would begin with 52.4 instead of 52.2. This change is anticipated to prevent confusion and increase compliance by creating a clear distinction between versions of a provision or clause prior to the RFO. Other benefits include avoiding potential clause numbering conflicts and information system and data collection impacts. The FAR Council welcomes comments on the potential impact of such a change on contractors, Government personnel, and other stakeholders.

III. Applicability to Contracts and Subcontracts Valued at or Below the Simplified Acquisition Threshold and for Commercial Products, Commercially Available Off-the-Shelf Items, and Commercial Services

The following sections address the applicability of provisions and clauses prescribed in FAR parts 5, 24, and 29 to solicitations and contracts valued at or below the simplified acquisition threshold (SAT) and those for the acquisition of commercial products, commercially available off-the-shelf (COTS) items, and commercial services. Prescriptions for provisions and clauses in these parts have been updated to reflect applicability to commercial acquisitions.

A. Contracts and Subcontracts Valued at or Below the Simplified Acquisition Threshold

This proposed rule, if finalized, does not alter the prescriptions of provisions and clauses included in this proposed rule to change their applicability to contracts and subcontracts valued at or below the SAT.

B. Contracts and Subcontracts for Commercial Products, Commercially Available Off-The-Shelf Items, and Commercial Services.

41 U.S.C. 1906 governs the applicability of laws to contracts for the acquisition of commercial products and commercial services and gives the FAR Council the authority to determine to apply a law to contracts or subcontracts for the acquisition of commercial products and commercial services. 41 U.S.C. 1907 exempts contracts for commercially available off-the-shelf (COTS) items from certain provisions of law unless the Administrator for Federal Procurement Policy determines that doing so would not be in the best interest of the Federal Government.

Section 839 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232) required the FAR Council and the Administrator of Federal Procurement Policy to review prior determinations under 41 U.S.C. 1906 and 41 U.S.C. 1907, as well as the applicability of provisions and clauses to contracts and subcontracts for commercial products, COTS items, and commercial services that do not implement statute or Executive order, and propose amendments to the FAR to eliminate or exempt such requirements from commercial acquisitions, unless there are specific reasons to retain particular requirements.

In accordance with section 839 of the NDAA for FY 2019 and their authorities under 41 U.S.C. 1906 and 1907, the FAR Council reviewed the applicability of the provisions and clauses associated with the FAR parts covered by this proposed rule.

The following table reflects the FAR Council and Administrator of Federal Procurement Policy's proposed determination regarding the applicability of the provisions and clauses to solicitations and contracts for commercial products, COTS items, and/or commercial services. In making proposed applicability determinations, the FAR Council considered factors such as whether the provision or clause advances national security or economic security, contributes to the resilience of contractors and subcontractors in the Federal marketplace, or advances uniformity and clarity in the performance of basic functions that are essential to sound procurement.

Accordingly, this proposed rule, if finalized, would revise provision and clause prescriptions to clearly reflect applicability to commercial acquisitions as outlined in the table. An ''X'' in the following table indicates the provision or clause will apply to that category of commercial acquisition, as prescribed:

Provision/Clause No.	Title	Commercial Products	Commercial Services	COTS items
52.224–1	Privacy Act Notification	X	X	X
52.224–2	Privacy Act	X	X	X
52.224–3	Privacy Training	X	X	X
52.229–1	State and Local Taxes			
52.229–2	North Carolina State and Local Sales and Use Tax			
52.229–3	Federal, State, and Local Taxes			
52.229–4	Federal, State, and Local Taxes (State and Local Adjustments).			
52.229–6	Taxes–Foreign Fixed-Price Contracts	X	X	X
52.229–7	Taxes-Fixed-Price Contracts with Foreign Governments			
52.229–8	Taxes-Foreign Cost-Reimbursement Contracts			
52.229–9	Taxes-Cost-Reimbursement Contracts with Foreign Governments.			
52.229–10	State of New Mexico Gross Receipts and Compensating Tax.			
52.229–11	Tax on Certain Foreign Procurements—Notice and Representation.	X	X	X
52.229–12	Tax on Certain Foreign Procurements	X	X	X

The FAR Council also reviewed subcontract flow down requirements in clauses associated with the FAR parts covered by this proposed rule. The following table reflects the FAR Council and Administrator of Federal Procurement Policy's proposal regarding whether those clauses flow down to subcontracts for commercial products, COTS items, and/or commercial services. This proposed rule, if finalized, would revise the subcontract paragraphs in these clauses to clearly state whether the clause flows down to commercial subcontracts, as outlined in the table. An ''X'' in the following table indicates the provision or clause will apply to subcontracts for that category of commercial subcontracts, as described in the clause:

Clause No.	Title	Commercial products	Commercial services	COTS items
52.224–2	Privacy Act	X	X	X
52.224–3	Privacy Act Training	X	X	X
52.229–10	State of New Mexico Gross Receipts and Compensating Tax.			

IV. Expected Impact of the Rule

The intended impact of the RFO, as stated in E.O. 14275, is to restore the Government's ability to ''deliver on a timely basis the best value product or service to the customer, while maintaining the public's trust and fulfilling public policy objectives.'' Each of the RFO rulemakings is designed to contribute to this impact by emphasizing mission first, by aligning acquisition activities directly to achieving the agency's overarching objectives and serving the public interest and elevating the importance of fiscal responsibility. The proposed RFO rules focus on three goals in particular:

(1) timely acquisition and delivery, (2) lower cost and accountability in all spending, and (3) increased competition.

Timeliness. Timely acquisition and delivery are essential for mission success. To this end, RFO rules propose to eliminate mandates that unnecessarily interfere with agency discretion to determine the best way to procure products and services. The proposed RFO rules highlight more clearly streamlined and simplified authorities that allow buyers to use their time more efficiently and are expected to reduce time between solicitation and award. The proposed RFO rules are expected to make it easier for contracting officers to leverage commercial practices that are familiar to the commercial marketplace. This is expected to make it easier for sellers to engage and respond to Government solicitations more rapidly.

Lower cost. E.O. 14271, Ensuring Commercial, Cost-Effective Solutions in Federal Contracts (April 15, 2025), directs the Government to utilize, to the maximum extent practicable, the commercial marketplace and the innovations of private enterprise to provide better, more cost-effective services to taxpayers, as envisioned by the Federal Acquisition Streamlining Act. The procurement of custom products and services where a suitable or superior commercial solution would have fulfilled the Government's needs has resulted in avoidable waste to the detriment of American taxpayers.

To address these concerns, consistent with associated responsibilities in section 839 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232), the FAR Council reviewed prescriptions for provisions and clauses to ensure all prescriptions are clear regarding their applicability to acquisitions for commercial products and services. Currently, many prescriptions do not specify applicability to commercial acquisitions and leave the applicability determination to contracting officer interpretation. By specifically stating when a provision or clause can be applied to commercial acquisitions, proposed RFO rules should decrease the likelihood of inclusion of provisions and clauses in commercial acquisitions that are not required by law and drive greater consistency in the terms and conditions used in these contracts. In turn, these changes should increase the participation of commercial sellers, who are unwilling or unable to manage the cost of complying with noncommercial requirements, and also improve taxpayer access to affordable commercial solutions.

Some RFO rules propose to delete requirements placed on commercial or noncommercial sellers that are not related to performance of the contract, drive up cost without attendant performance benefits, and may misdirect efforts away from innovation, investment and economic growth. Greater emphasis on timeliness should reduce bidders' carrying costs, enabling them to pass those savings on to customers through lower prices.

Increased competition. Since enactment of the Competition in Contracting Act of 1984 (Title VII of Pub. L. 98–369), competition has been the cornerstone of the Federal acquisition system. The benefits of competition are well established: competition saves money for the taxpayer, improves contractor performance, curbs fraud, and promotes accountability for results. Competition also drives contractor resilience and positions the U.S. market to develop a strategic advantage for the nation.

According to data in the SAM Contract Award Management, roughly 45 percent of contract dollars were awarded in FY 2025 either without competition or with competition that received only one offer. Of equal concern, the Federal marketplace has seen a significant decline over the past 20 years in the number of businesses—especially small businesses—participating in the Federal supplier base. Studies suggest that high compliance costs lead to the misallocation of resources away from more profitable activities and discourage innovation, investment, and economic growth (Council of Economic Advisers, Executive Office of the President. June 2025. The Economic Benefits of Current Deregulatory Policies. *https://www.whitehouse.gov/wp-content/uploads/2025/03/The-Economic-Benefits-of-Current-Deregulatory-Efforts.pdf).* This may shelter incumbent contractors and stifle competition, reducing startup activity and job formation.

The RFO rules seek to increase participation in agency competitions and the resilience of the Federal supplier base—which includes commercial entities, small businesses, manufacturers, and nontraditional suppliers. The RFO will achieve this outcome by removing regulatory mandates that are not rooted in statute or essential to sound procurement, promoting greater reliance on practices that reduce transaction costs, and improving the quality of communications with offerors and potential offerors. Access to a broader range of solutions in a more dynamic marketplace will drive better return for each taxpayer dollar spent and increase taxpayer confidence in the Federal acquisition system.

The Government has conducted a regulatory impact analysis (RIA) for the RFO rulemaking inclusive of this proposed rule for FAR parts 5, 24, and 29. The RIA includes a discussion of the anticipated effects of the rulemakings as follows:

1. FAR Part 5

This proposed rule reorganizes the publicizing requirements into a lifecycle-based structure and introduces tables that consolidate posting timelines, improving usability and consistency across acquisition phases. This restructuring, along with clarified guidance on national security exceptions and award announcements over $5.5 million, enhances the clarity and application of the part. The relocation of publicizing requirements specific to commercial acquisitions into FAR part 12 consolidates all commercial acquisition policies in one place, reducing the need for contracting officers to cross-reference multiple parts. In addition, the proposed rule updates the thresholds used in FAR 5.101, Table 5–2, to determine the minimum posting timeframes for presolicitation notices. This change reflects statutory inflation adjustments and aligns the posting tiers with current trade agreement structures and historic escalation factors. Specifically, the lower-tier threshold is increased from $25,000 to $45,000.

Benefits to the Government include improved regulatory navigation, reduced administrative burden, and fewer procedural errors resulting from streamlined guidance, consolidated commercial publicizing rules, and the removal of outdated thresholds that previously complicated application. The threshold update also reduces lower value presolicitation postings, allowing contracting officers to focus on actions with meaningful competition impact. Benefits to industry include clearer, more consistent public notices, a more predictable regulatory framework aligned with modern economic thresholds, and reduced clutter from low value postings, which can help vendors, particularly small businesses, more efficiently identify relevant opportunities. Any burdens associated with these changes are minimal and one-time, consisting primarily of familiarization, updates to internal policies, screening tools, or automated posting parameters, and routine

adjustments to agency training and templates, policy updates, and minor procurement system modifications.

2. FAR Part 24

The changes to FAR part 24 focus on removing duplicative, non-statutory text so that the part more clearly presents statutory privacy and FOIA protections and established Governmentwide standards. This streamlining does not alter substantive requirements but improves clarity and readability for the acquisition workforce. Benefits to the Government include easier interpretation and application of privacy and FOIA policies, reduced reliance on redundant regulatory text, and improved clarity regarding roles and responsibilities. Benefits to industry are indirect; because no contractor obligations are changed or added, vendors experience the same compliance environment but may benefit from reduced ambiguity and fewer unnecessary documentation exchanges resulting from simplified regulatory language. Anticipated burdens or costs are negligible and limited to routine internal updates within agencies.

3. FAR Part 29

The proposed revisions to FAR part 29 improve clarity, accuracy, and usability by streamlining statutory requirements, removing obsolete requirements, refining excise tax references, reorganizing key definitions, and modernizing documentation requirements for tax exemption claims. Benefits to the Government include improved accuracy in applying excise tax authorities, clearer organizational structure, and more efficient processing of tax-exempt transactions. Benefits to industry include reduced administrative burden, minimized delays associated with exemption documentation requests, and more predictable, streamlined interactions with Government purchasers. Any burdens associated with implementation are minimal and limited primarily to internal guidance and training updates.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Executive Order 14192

This rule is subject to E.O. 14192, Unleashing Prosperity Through Deregulation. This proposed rule, if finalized as proposed, is anticipated to be an E.O. 14192 deregulatory action. See discussion in the ''Expected Impact of the Rule'' section of this preamble.

VII. Regulatory Flexibility Act

This proposed rule, if finalized, may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601–612. However, an Initial Regulatory Flexibility Analysis (IRFA) is as follows:

1. Reasons for the Action

Executive Order (E.O.) 14275, Restoring Common Sense to Federal Procurement, directs the elimination of excessive acquisition regulations to stop the inefficient use of American taxpayer dollars. The E.O. directs the first comprehensive end-to-end overhaul of the FAR in its 40-year history. The E.O. establishes the policy that the FAR should ''contain only provisions that are required by statute or that are otherwise necessary to support simplicity and usability, strengthen the efficacy of the procurement system, or protect economic or national security interests.'' In response to E.O. 14275, the Office of Management and Budget issued memorandum M–25–26, Overhauling the Federal Acquisition Regulation. The Memo directed the FAR Council to complete a ''revolutionary overhaul'' of the FAR. Therefore, the FAR Council is issuing twelve proposed rules that collectively will streamline the FAR in its entirety.

2. Objectives of, and Legal Basis for, the Rule

The revolutionary FAR overhaul (RFO) rewrite represents a paradigm shift in Federal acquisition. It emphasizes streamlining, clarity, and accessibility, while ensuring that the regulation focuses only on statutory mandates and foundational procurement principles. The RFO is designed to simplify compliance for contracting professionals, improve acquisition speed and agility, and reinforce mission outcomes over process formalities.

The basis for the RFO is E.O. 14275. The authority for promulgation of the FAR is 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

3. Description of and an Estimate of the Number of Small Entities to Which the Rule Will Apply

All small entities who want to contract with the Federal Government will have to familiarize themselves with the reorganized, streamlined, and revised FAR, including the content of this rulemaking. As of January 2026, there are 401,196 entities registered in the System for Award Management (SAM) that were small for at least one North American Industry Classification System (NAICS) code they had selected.

a. FAR Part 5

The proposed changes to FAR part 5 reorganize the text into lifecycle-based subparts, present posting requirements in standardized tables, consolidate commercial acquisition references into FAR part 12, clarify exceptions for national security, and increase the threshold for public announcements from $4.5 million to $5.5 million. These revisions will make the FAR easier to navigate and reduce confusion for small businesses by providing clearer guidance and standardized formats. While small entities may need to update internal procedures to align with the reorganized structure, the overall effect is expected to reduce administrative burden and improve transparency. Familiarization costs are anticipated to be minimal, primarily involving time spent reviewing the new structure.

Additionally, the adjustments to the presolicitation notice thresholds in Table 5–2 increased the 10-day posting threshold from $25,000 to $45,000, resulting in a higher number of lower dollar acquisitions following the 10-day minimum posting period rather than the 15-day period. This change does not alter whether notices must be posted but modestly streamlines the presolicitation phase while still ensuring that small entities receive advanced visibility into upcoming opportunities. As a result, any impact on small entities is expected to be minimal and generally neutral to slightly beneficial.

b. FAR Part 24

The changes to FAR Part 24 streamline and modernize the regulation by removing duplicative and outdated material, such as the former Privacy Training section, and eliminating unnecessary repetition within 24.102. The revisions also clarify the remaining provisions, including the scope of agency civil liability when contractors handle systems of records. These revisions will not impose new obligations on small entities and will instead provide greater clarity, reducing uncertainty and compliance risk. No additional costs are expected for small entities as a result of these changes.

c. FAR Part 29

The revisions to FAR Part 29 clarify that a Government Purchase or Fleet Card is acceptable evidence for tax exemption, remove obsolete sections related to Afghanistan tax clauses, and relocate the definition of ''State and Local Taxes'' for clarity. These changes will reduce administrative burden for small entities by eliminating unnecessary documentation requirements and streamlining compliance processes. No new requirements are introduced, and the overall impact is expected to be positive, saving time and reducing paperwork.

d. FAR Part 52

This change clarifies the applicability of provisions and clauses to commercial applications in clauses associated with updates to prescriptions in FAR parts 24 and 29. In addition to these clarifications, the rule includes plain language edits, such as improvements to readability, updates to active voice, and replacement of the term ''shall'' with ''must,'' to promote consistency across prescriptions and clauses. Any costs are negligible and limited to internal policy updates. Therefore, the changes are not expected to have a significant economic impact on a substantial number of small entities.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule

This proposed rule, if finalized, does not contain any new reporting, recordkeeping or other compliance requirements.

a. FAR Part 5

This proposed rule does not contain any new reporting, recordkeeping, or other compliance requirements under FAR part 5. The revisions are structural and editorial in nature and do not impose additional compliance obligations on contractors. Small entities may need to review the reorganized content and update internal procedures, but no new reporting or recordkeeping requirements are introduced.

b. FAR Part 24

This proposed rule does not contain any new reporting, recordkeeping, or other compliance requirements under FAR part 24. The revisions do not create new compliance obligations; they simply improve clarity and eliminate redundancy.

c. FAR Part 29

This proposed rule does not contain any new reporting, recordkeeping, or other compliance requirements under FAR part 29. The revisions reduce administrative burden by simplifying documentation requirements and do not introduce new compliance activities.

d. FAR Part 52

This proposed rule does not contain any new reporting, recordkeeping, or other compliance requirements under FAR part 52. The updates clarify the applicability of prescriptions and clauses to commercial acquisitions and make conforming revisions to clauses associated with FAR parts 24 and 29. These changes are editorial and organizational in nature and do not impose new compliance obligations.

5. Relevant Federal Rules Which May Duplicate, Overlap, or Conflict With the Rule

The proposed rule, if finalized, would not duplicate, overlap, or conflict with other Federal rules.

6. Description of Any Significant Alternatives to the Rule Which Accomplish the Stated Objectives of Applicable Statutes, and Which Minimize any Significant Economic Impact of the Rule on Small Entities

There are no significant alternatives that would minimize the impact of the rule on small entities.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. The FAR Council invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

The FAR Council will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite ''5 U.S.C. 610 (FAR Case 2026–005)'' in correspondence.

VIII. Paperwork Reduction Act

This rule includes information collections under the Paperwork Reduction Act (44 U.S.C. 3501–3521). Following are the specific collections associated with each FAR part in this rule as previously approved by OMB followed by how each collection would be affected by the proposed rule. If a FAR part is not listed below, then there are no information collections associated with the part.

A. FAR Part 24

OMB Control No 9000–0182, Privacy Training-FAR Section Affected: 52.224–3. The changes under this proposed rule, if finalized, would not affect the information collection or the paperwork burden previously approved by OMB. The collection would remain unchanged.

B. FAR Part 29

OMB Control No 9000–0059, North Carolina Sales Tax Certification—FAR Section Affected: 52.229–2. The changes under this proposed rule, if finalized, would not affect the information collection or the paperwork burden previously approved by OMB. The collection would remain unchanged.

C. Comments Regarding Paperwork Burden

The FAR Council will publish a separate first notice in accordance with the Paperwork Reduction Act seeking comments on the changes to the collections of information affected by this proposed rule.

IX. Severability

If any portion (*e.g.,* section, clause, sentence) of this rule is held to be invalid or unenforceable facially, or as applied to any entity or circumstance, it shall be severable from the remainder of this rule, and shall not affect the remainder thereof, or its application to entities not similarly situated or to other dissimilar circumstances. The various portions of this rule are independent and serve distinct purposes. Even if one aspect were rendered invalid, the other benefits of the rule would still be applicable.

List of Subjects in 48 CFR Parts 5, 24, 29, and 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, OFPP, DoD, GSA, and NASA propose amending 48 CFR parts 5, 24, 29, and 52 as set forth below:

■ 1. Revise parts 5, 24, and 29 to read as follows:

PART 5—PUBLICIZING NONCOMMERCIAL CONTRACT ACTIONS

Sec.

5.000 Scope of part.
5.001 Definitions.
5.002 Policy.

Subpart 5.1—Presolicitation

5.101 Presolicitation notice.
5.102 Paid advertisements.
5.103 Special notices.

Subpart 5.2—Solicitation

5.201 Solicitation notice.
5.202 Requests from small businesses.

Subpart 5.3—Award

5.301 Award notice.
5.302 Public announcement.
5.303 Notice of subcontract opportunity.

Authority: 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

5.000 Scope of part.

This part prescribes the policies and procedures for publicizing contract opportunities and award information in the Governmentwide point of entry (GPE). Policies and procedures for publicizing commercial contract opportunities and award information can be found in FAR Part 12.

5.001 Definitions.

As used in this part—

Contract action means an action resulting in a contract, including actions for additional supplies or services outside the existing contract scope. This does not include actions within the scope and terms of the existing contract, such as contract modifications issued under the Changes clause, or funding and other administrative changes.

Notice means a description of a business opportunity, contract action, or other information posted to the GPE.

Presolicitation notice means a notice used to notify industry and the public that the Government intends to release a solicitation in the near future.

5.002 Policy.

Contracting officers must post presolicitation notices, solicitations, and award notices in the GPE as described in this part to—

(a) Increase competition;

(b) Broaden industry participation in meeting Government requirements; and

(c) Inform small business concerns of contract and subcontract opportunities.

Subpart 5.1—Presolicitation

5.101 Presolicitation notice.

(a) *Requirement.* For proposed contract actions expected to be greater than $20,000, post a presolicitation notice to the GPE unless an exemption in paragraph (b) applies.

(b) *Exemptions.* The contracting officer is not required to post a presolicitation notice to the GPE when—

(1) The proposed contract action—

(i) Is valued at or below the simplified acquisition threshold (SAT) and the solicitation will—

(A) Be posted to the GPE in accordance with 5.201; and

(B) Permit the public to respond to the solicitation electronically;

(ii) Is such that it is not possible to publicly describe the agency's needs without compromising national security or create other security risks;

(iii) Would result from acceptance of—

(A) An unsolicited proposal that is unique and innovative, and sharing details would reveal confidential or proprietary information or original ideas; or

(B) A proposal under the Small Business Innovation Development Act of 1982 (Pub. L. 97–219);

(iv) Is for an order issued under a requirements contract, a task order contract, or a delivery order contract;

(v) Is for perishable subsistence supplies;

(vi) Is for utility services (other than telecommunications) for which only one source is available; or

(vii) Is for the services of an expert for use in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government in a trial, hearing, or proceeding before a court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify;

(2) Using other than full and open competition (see 6.103); however—

(i) A presolicitation notice is required for the authority at 6.103–1 (Only One Responsible Source).

(ii) For the authority at 6.103–6 (National Security), a presolicitation notice must be posted unless posting the notice would disclose the agency's needs in a way that compromises national security; or

(3) The head of the agency determines in writing, after consulting with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that posting a presolicitation notice is not appropriate or reasonable.

(c) *Content.* Include the following information in each presolicitation notice sent to the GPE:

(1) *Point of contact.* Include the name, address, and contact information for the contracting officer.

(2) *Set-asides.* If applicable, identify whether the proposed contract action will be a total or partial small business set-aside (see part 19) or a local area set-aside (see part 26).

(3) *Codes for services or supplies.* Select the appropriate code(s) (*i.e.,* product service code (PSC) and/or North American Industry Classification System (NAICS) code) to identify services or supplies to be procured.

(4) *Description.*

(i) Provide a clear and concise description of supplies or services that does not unnecessarily restrict competition and allows prospective offerors to make an informed business judgment about monitoring the GPE for or requesting a copy of the solicitation. For supplies, this description should include, as appropriate, any agency nomenclature, National Stock Number, or other part number and a brief description of the item's form, fit, or function, physical dimensions, predominant material of manufacture, or similar information.

(ii) If a proposed contract action is estimated to be greater than $25,000, but not greater than the SAT, include a description of the procedures for awarding the contract and the anticipated award date.

(iii) If one or more items under the acquisition is subject to the World Trade Organization Government Procurement Agreement (WTO GPA) and/or a Free Trade Agreement (FTA) (see Part 25) and the solicitation will include one of the following clauses, or an agency equivalent, include the required language regarding trade agreements:

TABLE 5–1—STATEMENTS REGARDING TRADE AGREEMENTS

FAR clause	Required language
FAR 52.225–3, Buy American-Free Trade Agreement-Israeli Trade Act	"One or more of the items under this acquisition is subject to Free Trade Agreements."
FAR 52.225–5, Trade Agreements	"One or more of the items under this acquisition is subject to the World Trade Organization Government Procurement Agreement and Free Trade Agreements."
FAR 52.225–11, Buy American-Construction Materials under Trade Agreements, or FAR 52.225–23, Required Use of American Iron, Steel, and Manufactured Goods-Buy American Statute-Construction Materials under Trade Agreements.	"One or more of the items under this acquisition is subject to the World Trade Organization Government Procurement Agreement and Free Trade Agreements."

(iv) If technical data required to respond will not be furnished as part of the solicitation, identify where and how prospective offerors can obtain the data.

(v) If an award of a construction contract to a small business is anticipated, include information about definitization of equitable adjustments for change orders (see part 36).

(vi) Include a statement that all responsible sources may submit a

quotation, bid, or proposal, as appropriate, which will be considered by the agency.

(vii) For noncompetitive contract actions (including those at or below the SAT), identify the intended source and explain why competition is lacking.

(viii) State whether an offeror or its product or service must meet a qualification requirement in order to be eligible for award; and if so, identify the office from which the qualification requirement may be obtained.

(d) *Timing.* When a presolicitation notice is required, post it to the GPE as follows:

TABLE 5–2—MINIMUM TIMEFRAMES FOR POSTING PRESOLICITATION NOTICES

Acquisition value	Minimum timing
>$20,000 to ≤$45,000.	Must be posted for 10 days.
>$45K to ≤SAT.	Must be posted 15 days before soliciting quotations directly, or awarding to only one source under the authority at 13.101(b)(2).
>SAT	Must be posted 15 days before posting the solicitation or awarding to only one source under the authority at 6.103–1 or 6.103–6.

5.102 Paid advertisements.

In addition to posting in the GPE, agencies may place paid advertisements. Agencies that choose to advertise proposed contract actions in newspapers or other public media must follow 41 U.S.C. 3701–3703.

5.103 Special notices.

(a) Federally Funded Research and Development Centers (FFRDCs). For requirements relating to FFRDCs see part 35.

(b) Notices about consolidation or bundling. For required notices about bundling or consolidation requirements, see part 7.

Subpart 5.2—Solicitation

5.201 Solicitation notice.

(a) *Requirements.* Unless an exemption at paragraph (b) applies, post the solicitation in the GPE.

(b) *Exemptions.* The contracting officer does not need to post the solicitation to the GPE if a presolicitation notice—

(1) Was not required based on an exemption at 5.101(b), except when the exemption at 5.101(b)(1)(i) applies;

(2) Was posted to the GPE for a proposed contract action the Government intends to award to only one source under the authority of 6.103–1, 6.103–6, or 13.101(b)(2)]; or—

(3) Was posted to the GPE for a proposed contract action valued at or below the SAT and the Government will solicit quotations directly from at least three sources under the authority at 13.201.

(c) *Content.* The solicitation notice posted to the GPE must include—

(1) The information required by 5.101(c);

(2) Specifications, technical data, and other pertinent information determined necessary by the contracting officer or instructions on how to access the information; and

(3) When an acquisition contains brand name specifications, the justification required by 6.104, redacted as necessary.

(d) *Timing.* Establish a date for receipt of quotations or offers that meets the minimum timeframes in the table below. See part 25 to determine whether an acquisition is subject to the WTO GPA or an FTA.

TABLE 5–3—MINIMUM TIMEFRAMES FOR RECEIPT OF QUOTATIONS OR OFFERS

Value	Description	Not subject to WTO GPA or FTA	Subject to WTO GPA or FTA, and included in annual forecast	Subject to WTO GPA or FTA, but not included in annual forecast
≥$20K to ≤SAT.	Any acquisition	None, allow a reasonable opportunity to respond.	10 days from presolicitation notice or solicitation, as applicable.	40 days from presolicitation notice or solicitation, as applicable.
>SAT	Research and Development (R&D) acquisitions.	45 days from presolicitation notice.	N/A	N/A.
	Orders under a Basic Ordering Agreement (BOA) or similar (non-R&D).	30 days from presolicitation notice.	40 days from presolicitation notice (reducible to 10 days, if warranted as determined by the contracting officer).	40 days from presolicitation notice.
	All other acquisitions	30 days from solicitation	30 days from solicitation (reducible to 10 days, if warranted).	30 days from solicitation.

5.202 Requests from small businesses.

Per 15 U.S.C. 637(b), when a solicitation is not posted to the GPE, provide to small business concerns, upon request—

(a) A copy of the solicitation and specifications;

(b) The name and email address of the solicitation point of contact; and

(c) Adequate citations to Federal laws and agency rules the small business must follow if awarded a contract.

Subpart 5.3—Award

5.301 Award notice.

(a) *Requirement.* Except as provided in paragraph (b) of this section, post an award notice to the GPE for contract actions greater than $25,000 that are—

(1) Covered by the WTO GPA or FTA (see part 25); or

(2) Likely to result in subcontract awards.

(b) *Exemptions.* An award notice is not required if an exemption at 5.101(b)(1) to the presolicitation notice requirements applied to the contract action.

(c) *Content.* The award notice must include the following information:

(1) A description of the supplies or services.

(2) Contracting office and address.

(3) Contractor receiving the award.

(4) Contract award dollar amount.

(5) Contract award date.

(d) *Timing.* When an award notice is required, post it to the GPE within the following timeframes:

TABLE 5–4—MINIMUM TIMEFRAMES FOR POSTING AWARD NOTICES

Value	Description	Timing
>$25K	Likely to result in subcontracting opportunities	As soon as possible after award to promote industry and small business participation.
	Not likely to result in subcontracting opportunities, but subject to WTO GPA or FTA.	Within 60 days of award.

5.302 Public announcement.

(a) Agencies may publicly announce awards of contract actions over $5.5 million as soon as practicable on the day of award, consistent with agency procedures. Public announcement under this section is distinct from the automated posting to the Governmentwide Point of Entry (GPE) required by part 5.301. Agencies may use any appropriate method to inform the public of significant contract awards.

(b) Public announcement should not be issued for contracts—

(1) Placed with the Small Business Administration under Section 8(a) of the Small Business Act;

(2) Placed with foreign firms when delivery or performance is outside the United States and its outlying areas; and

(3) That were exempt from the presolicitation notice requirements at 5.101(b).

5.303 Notice of subcontracting opportunity.

(a) The following entities may post a notice of subcontracting opportunities to the GPE:

(1) A contractor awarded a contract greater than the SAT that will likely result in subcontract awards.

(2) A subcontractor or supplier, at any tier, under a contract greater than the SAT with a subcontracting opportunity greater than $20,000.

(b) The notice must include—

(1) The business opportunity information described at 5.101(d)(4)(i), and

(2) The due date for receipt of offers.

PART 24—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Sec.

24.000 Scope of part.

Subpart 24.1—Protection of Individual Privacy

24.101 Definitions.
24.102 General.
24.103 Procedures.
24.104 Contract clauses.

Subpart 24.2—Freedom of Information Act

24.201 Authority.
24.202 Prohibitions.
24.203 Policy.

Subpart 24.3—Privacy Training

24.301 [Reserved]
24.302 Contract clause.

Authority: 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

24.000 Scope of part.

This part explains how the Privacy Act of 1974 (5 U.S.C. 552a) and the associated requirements of OMB Circular A–108 (Dec. 23, 2016), OMB Circular No. A–130 (July 28, 2016), and Privacy Act Implementation: Guidelines and Responsibilities, 40 FR 28,948 (July 9, 1975) apply to Government contracts. It also references the Freedom of Information Act (5 U.S.C. 552).

Subpart 24.1—Protection of Individual Privacy

24.101 Definitions.

As used in this subpart—

Agency means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

Individual means a citizen of the United States or an alien lawfully admitted for permanent residence.

Maintain means maintain, collect, use, or disseminate.

Operation of a system of records means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

Personally identifiable information means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual. (See Office of Management and Budget (OMB) Circular No. A–130, Managing Federal Information as a Strategic Resource).

Record means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history, and that contains the individual's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

System of records means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

24.102 General.

(a) The Privacy Act requirements apply to the contractor and its employees working on the contract when the contract requires the contractor to design, develop, or operate a system of records to accomplish an agency function. The system of records operated under the contract is officially considered to be maintained by the agency for the purposes of the Act.

(b) Both agency staff and contractor employees may face criminal penalties for violating the Privacy Act. When contractors operate a system of records to accomplish an agency function, the law treats these contractors as agency employees for purposes of the criminal penalties.

(c) Agencies that, within the limits of their authorities, fail to require contractors to operate systems of records according to the Privacy Act may be civilly liable. If an individual suffers harm due to the contractor's violation of the Act, the agency may be liable. This provision does not apply to contractors performing design, development, or other activities that do not involve operating a system of records on behalf of the agency.

24.103 Procedures.

(a) The contracting officer must review requirements to determine if they include designing, developing, or

operating a system of records to accomplish an agency function.

(b) If the contract requires such work, the contracting officer must—

(1) Clearly identify in the contract work statement both the specific system of records and the design, development, or operation work required; and

(2) Provide the contractor with the agency's rules and regulations that implement the Privacy Act.

24.104 Contract clauses.

When a contract requires designing, developing, or operating a system of records to accomplish an agency function, including those for commercial products or commercial services, include the following clauses in solicitations and contracts:

(a) The clause at 52.224–1, Privacy Act Notification.

(b) The clause at 52.224–2, Privacy Act.

Subpart 24.2—Freedom of Information Act

24.201 Authority.

The Freedom of Information Act (5 U.S.C. 552) requires that information be made available to the public through three methods:

(a) Publication in the **Federal Register**;

(b) Access to read and copy records at convenient locations; or

(c) Providing a copy of a reasonably described record upon request.

24.202 Prohibitions.

(a) An agency must not disclose under the Freedom of Information Act any proposal submitted in response to solicitation for competitive proposals. This prohibition does not apply to a proposal, or any part of a proposal, that is included or incorporated by reference in a contract between the Government and the contractor that submitted the proposal. (See 10 U.S.C. 3309 and 41 U.S.C. 4702.)

(b) An agency must not disclose outside the Government any information obtained under part 15 that is exempt from disclosure under the Freedom of Information Act. (See 10 U.S.C. 3705(c)(3) and 41 U.S.C. 3505(b)(3).)

(c) A dispute resolution communication between a neutral person and a party to alternative dispute resolution proceedings that is protected under 5 U.S.C. 574(j) is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(3)).

24.203 Policy.

(a) The Freedom of Information Act specifies how agencies must make their records available upon public request, sets strict time standards for agency responses, and exempts certain records from public disclosure. Each agency's implementation of these requirements appears in its respective title of the Code of Federal Regulations and is referenced in subpart 24.2 of its implementing acquisition regulations.

(b) Contracting officers may receive requests for records that may be exempt from mandatory public disclosure. The most common exemption is for trade secrets and confidential commercial or financial information (5 U.S.C. 552(b)(4)). Other exemptions include certain interagency or intra-agency memoranda, classified information, internal personnel rules, personal and medical information about individuals, and law enforcement.

(c) Since these requests often involve complex issues requiring in-depth knowledge of court rulings and policy guidance, contracting officers must comply with their agency's implementing regulations. Contracting officers should obtain necessary guidance from agency officials responsible for Freedom of Information Act compliance. For additional assistance, authorized agency officials may contact the Department of Justice, Office of Information Policy. A Freedom of Information Act guide and other resources are available at the Department of Justice website under FOIA reference materials: *https://www.justice.gov/oip.*

Subpart 24.3—Privacy Training

24.301 [Reserved]

24.302 Contract clause.

(a) Insert the clause at FAR 52.224–3, Privacy Training, in solicitations and contracts, including those for commercial products or commercial services, when, on behalf of the agency, contractor employees will—

(1) Have access to a system of records;

(2) Create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information; or

(3) Design, develop, maintain, or operate a system of records.

(b) Use the clause with its Alternate I when agency-provided training is required.

PART 29—TAXES

Sec.

29.000 Scope of part.

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29.101 Resolving tax problems.

Subpart 29.2—Federal Excise Taxes

29.201 General.
29.202 General exemptions.
29.203 Other Federal tax exemptions.
29.204 Federal excise tax on specific foreign contract payments.

Subpart 29.3—State and Local Taxes

29.300 Scope of subpart.
29.301 Definitions.
29.302 Application of State and local taxes to the Government.
29.303 Application of State and local taxes to Government contractors and subcontractors.
29.304 North Carolina Sales and Use Tax Act.
29.305 State and local tax exemptions.

Subpart 29.4—Contract Clauses

29.401 Domestic contracts.
29.401–1 Indefinite-delivery contracts for leased equipment.
29.401–2 Construction contracts performed in North Carolina.
29.401–3 Federal, State, and local taxes.
29.401–4 New Mexico gross receipts and compensating tax.
29.402 Foreign contracts.
29.402–1 Foreign fixed-price contracts.
29.402–2 Foreign cost-reimbursement contracts.
29.402–3 Tax on certain foreign procurements.

29.000 Scope of part.

This part provides policies and procedures for using tax clauses in contracts (including foreign contracts), claiming immunity or exemption from taxes, and getting tax refunds. It explains Federal, State, and local taxes on certain supplies and services that executive agencies buy and how these taxes apply to the Federal Government. This information is general guidance for Government personnel and does not cover all tax laws and regulations.

Subpart 29.1—General

29.101 Resolving tax problems.

Contract tax problems are primarily legal issues and vary widely. Contracting officers must consult the agency's legal counsel when tax issues arise, especially before negotiating with any taxing authority.

Subpart 29.2—Federal Excise Taxes

29.201 General.

(a) Federal excise taxes are taxes on the sale or use of specific supplies or services. Subtitle D of the Internal Revenue Code, Miscellaneous Excise Taxes 26 U.S.C. 4041, *et seq.,* and its regulations (26 CFR parts 40 through 299) primarily cover Federal excise tax requirements. Other statutory and regulatory provisions may apply. Direct questions in this area to legal counsel. The most common excise taxes are—

(1) Manufacturers' excise taxes on certain motor-vehicle articles, tires and inner tubes, gasoline, lubricating oils, coal, fishing equipment, firearms, shells, and cartridges sold by manufacturers, producers, or importers; and

(2) Special-fuels excise taxes charged at retail on diesel fuel and special motor fuels.

(b) Executive agencies must take advantage of available Federal excise tax exemptions. When the law exempts the Federal Government from these taxes, the contracting officer must, unless inappropriate for the circumstances, request offers on a tax-exclusive basis. When no exemption exists, request offers on a tax-inclusive basis.

29.202 General exemptions.

Federal manufacturers' or special-fuels excise taxes do not apply in many contracting situations. This includes supplies for any of the following purposes:

(a) The exclusive use of any State or political subdivision, including the District of Columbia (26 U.S.C. 4041 and 4221).

(b) Export shipment to a foreign country or an outlying area of the United States. Shipment must occur within 6 months after title passes to the Government. When claiming this exemption, the words ''for export'' must appear on the contract or purchase document. The contracting officer must give the seller proof of export (see 26 CFR 48.4221–3).

(c) Further manufacture, or resale for further manufacture (this exemption does not include tires and inner tubes) (26 CFR 48.4221–2).

(d) Use as fuel supplies, ships or sea stores, or legitimate equipment on vessels of war, including—

(1) Aircraft owned by the United States and constituting part of the armed forces; and

(2) Guided missiles and pilotless aircraft owned or chartered by the United States. When claiming this exemption, make the purchase on a tax-exclusive basis. The contracting officer must give the seller an exemption certificate for Supplies for Vessels of War (an example appears in 26 CFR 48.4221–4(d)(2). The IRS will accept one certificate covering all orders under a single contract for up to 12 calendar quarters) (26 U.S.C. 4041 and 4221).

(e) A nonprofit educational organization (26 U.S.C. 4041 and 4221).

(f) Emergency vehicles (26 U.S.C. 4053 and 4064(b)(1)(c)).

29.203 Other Federal tax exemptions.

(a) Under 26 U.S.C. 4293, the Secretary of the Treasury has exempted the United States from the communications excise tax imposed in 26 U.S.C. 4251, when the supplies and services are for the exclusive use of the United States. (Secretarial Authorization, June 20, 1947, Internal Revenue Cumulative Bulletin, 1947–1, 205.)

(b) Under 26 U.S.C. 4483(b), the Secretary of the Treasury has exempted the United States from the Federal highway vehicle users tax imposed in 26 U.S.C. 4481. The exemption applies whether the United States owns or leases the vehicle. (Secretarial Authorization, Internal Revenue Cumulative Bulletin, 1956–2, 1369.)

29.204 Federal excise tax on specific foreign contract payments.

(a) Title 26 U.S.C. 5000C and its implementing regulations at 26 CFR 1.5000C–1 through 1.5000C–7 require an acquiring agency to collect this excise tax (section 5000C tax) through withholding on applicable contract payments (see 29.402–3, 31.205–41(b)(8)). Agencies merely withhold the tax for the Internal Revenue Service (IRS). All substantive issues regarding the underlying section 5000C tax, such as the imposition of or exemption from the tax, are matters under IRS jurisdiction. For questions about interpreting IRS regulations, refer to *https://www.irs.gov/help/tax-law-questions.*

(b) According to clause 52.229–12, Tax on Certain Foreign Procurements, contractors subject to the section 5000C tax will complete IRS Form W–14, Certificate of Foreign Contracting Party Receiving Federal Procurement Payments, and submit this form with each voucher or invoice. If a completed IRS Form W–14 is not submitted with a payment request, the default withholding percentage is 2 percent for that payment request. Information about IRS Form W–14 is available at *www.irs.gov/w14.*

(c)(1) Exemptions from withholding in IRS regulations at 26 CFR 1.5000C–1(d)(1) through (4) are covered in the prescription at 29.402–3(a), which means the contracting officer will not include the provision when one of the 29.402–3(a) exceptions applies.

(2) The offeror will claim exemptions under 26 CFR 1.5000C–1(d)(5) through (7) by submitting an IRS Form W–14 with their offer. If not submitted with the offer, exemptions will not apply to the contract.

(3) Any exemption claimed and self-certified on the IRS Form W–14 is subject to IRS audit. Any disputes about imposing and collecting the section 5000C tax are handled by the IRS because this is a tax matter, not a contract issue.

(d) The exemptions in 29.201 through 29.203 do not apply to this section 5000C tax.

(e) Additional information about this excise tax on specific foreign contract payments is available at *https://www.irs.gov/government-entities/excise-tax-on-specified-federal-foreign-procurement-payments.*

Subpart 29.3—State and Local Taxes

29.300 Scope of subpart.

This subpart provides the policies and procedures regarding the exemption or immunity of Federal Government purchases and property from State and local taxation.

29.301 Definitions.

As used in this subpart—

State and local taxes means taxes levied by the States, the District of Columbia, outlying areas of the United States, or their political subdivisions.

29.302 Application of State and local taxes to the Government.

(a) Generally, purchases and leases made by the Federal Government are immune from State and local taxation. However, whether a specific purchase or lease is immune is a legal question requiring advice from the agency's legal counsel.

(b) When economically feasible, executive agencies must take full advantage of all exemptions from State and local taxation. When appropriate, the contracting officer must provide a Standard Form 1094, U.S. Tax Exemption Form (see part 53), or other evidence listed in 29.304(a) to establish that the Government is making the purchase.

29.303 Application of State and local taxes to Government contractors and subcontractors.

(a) The Government does not normally designate prime contractors and subcontractors as agents of the Government for claiming immunity from State or local sales or use taxes. Before asserting that a contractor is a Government agent, refer the matter to the agency head for review. Include all relevant data and a thorough analysis of all relevant legal precedents with the referral.

(b) When purchases are made by a prime contractor or subcontractor rather than directly by the Government, the right to exemption from sales or use tax may not depend on the Government's immunity from direct taxation by States and localities. Instead, it may depend on provisions of the specific State or local

law, or in some cases, the transaction may not be expressly exempt from the tax. Protect the Government's interest by following the procedures in 29.101.

(c) Often, property owned by the Government (including property acquired under progress payments or the Government property clause) is in a contractor's or subcontractor's possession. States or localities may claim the right to tax Government property directly or to tax the contractor's or subcontractor's possession of, interest in, or use of that property. In such cases, the contracting officer must seek review and advice from the agency's legal counsel on the appropriate action.

(d) Indefinite-delivery contracts for equipment rental may require the contractor to provide equipment in any state. States and local governments impose various taxes on equipment leased to the Government, and the tax amounts can vary significantly among jurisdictions.

29.304 North Carolina Sales and Use Tax Act.

(a) The North Carolina Sales and Use Tax Act allows counties and incorporated cities and towns to receive an annual refund from the Secretary of Revenue for sales and use taxes indirectly paid on building materials, supplies, fixtures, and equipment that become part of or are attached to any building or structure built, altered, or repaired for these counties and incorporated cities and towns in North Carolina. In *United States* v. *Clayton*, 250 F. Supp. 827 (1965), the court ruled that the United States is entitled to the refund but must follow the Act's refund procedure and regulations to recover what it is due.

(b) To receive the refund, the Act requires claimants to file a written request within 6 months after the end of their fiscal year, supported by records, receipts, and information that the Secretary of Revenue requires. Claimants will not receive a refund for applications filed late or not meeting the Secretary of Revenue's requirements. These requirements appear in regulations stating that to support a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures, or equipment by a contractor, the Government must get certified statements from the contractor showing the cost of property purchased from each vendor and the amount of sales or use taxes paid. If a contractor makes several purchases from the same vendor, the certified statement must show the invoice numbers, invoice dates, total invoice amount, and sales and use taxes paid. The statement must also include the cost of any tangible personal property the contractor took from warehouse stock and the amount of sales or use tax paid. The general contractor must obtain and provide to the claimant similar certified statements from subcontractors. The contractor's statement must show any local sales or use taxes separately from State sales or use taxes.

(c) The clause prescribed at 29.401–2 requires contractors to submit certified statements disclosing North Carolina State and local sales and use taxes paid during the 12-month period ending the previous September 30 to contracting officers by November 30 each year. The contracting officer must ensure contractors comply with this requirement and obtain the annual refund to which the Government is entitled. The refund application must be filed annually before March 31 in the manner and form the Secretary of Revenue requires. Get copies of the form from applicable state resources, or—

State of North Carolina
Department of Revenue
PO Box 25000
Raleigh, NC 27640

29.305 State and local tax exemptions.

(a) *General.* The contract may require the contractor to take specific actions regarding payment, nonpayment, refund, protest, or other handling of a specified tax. Such special treatment may be appropriate when there is doubt about the applicability or allocability of the tax, or when the tax's applicability is being challenged in court.

(b) *Evidence of exemption.* Evidence is needed to establish an exemption from State or local taxes. The type of evidence depends on the grounds for the exemption claimed, the parties involved, and the requirements of the taxing jurisdiction. Examples of evidence include but are not limited to documents that identify a U.S. agency as the buyer including Government Purchase or Fleet Cards, a U.S. tax exemption form (SF 1094), or documents establishing a State or local exemption.

(c) *Furnishing proof of exemption.* If there is a reasonable basis to claim an exemption, provide the seller with evidence of exemption, as follows:

(1) Under a contract containing the clause 52.229–3, Federal, State, and Local Taxes, if requested by the contractor and there is a reasonable basis to support the exemption.

(2) Under a contract containing the clause 52.229–4, Federal, State, and Local Taxes (State and Local Adjustments), if the contractor requests evidence that applies to a tax excluded from the contract price and there is a reasonable basis to support the exemption.

(3) Under a cost-reimbursement contract, if requested by the contractor and approved by the contracting officer or at the contracting officer's discretion.

(4) Under a contract or purchase order with no tax provision, if—

(i) Requested by the contractor and approved by the contracting officer or at the contracting officer's discretion; and

(ii) Either the contract price does not include the tax or, if the transaction or property is tax exempt, the contractor agrees to a reduction in the contract price.

Subpart 29.4—Contract Clauses

29.401 Domestic contracts.

29.401–1 Indefinite-delivery contracts for leased equipment.

Insert the clause at 52.229–1, State and Local Taxes, in solicitations and contracts for leased equipment, other than those for commercial products or commercial services, when—

(a) Planning a fixed-price indefinite-delivery contract;

(b) The contract will be performed wholly or partly in the United States or its outlying areas; and

(c) The delivery places are not known at the time of contracting.

29.401–2 Construction contracts performed in North Carolina.

Insert the clause at 52.229–2, North Carolina State and Local Sales and Use Tax, in solicitations and contracts for construction to be performed in North Carolina, other than those for commercial products or commercial services. If the requirement is for vessel repair in North Carolina, use the clause with its Alternate I.

29.401–3 Federal, State, and local taxes.

(a) Except as provided in paragraph (b) of this section, insert the clause at 52.229–3, Federal, State, and Local Taxes, in solicitations and contracts other than those for commercial products or commercial services if—

(1) The contract will be performed wholly or partly in the United States or its outlying areas;

(2) Planning a fixed-price contract; and

(3) The contract exceeds the simplified acquisition threshold.

(b) In a noncompetitive contract that meets all conditions in paragraph (a) of this section, the contracting officer may insert the clause at 52.229–4, Federal, State, and Local Taxes (State and Local Adjustments), instead of the clause at

52.229–3, other than those for commercial products or commercial services, if the price would otherwise include an inappropriate contingency for potential postaward changes in State or local taxes.

29.401–4 New Mexico gross receipts and compensating tax.

(a) *Definition.*

Service, as used in this section, is defined in the Gross Receipts and Compensating Tax Act of the State of New Mexico, Sec 7–9–3(S) NMSA 1978, and means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property. ''Service'' includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective, or ultimate objective of the contracting parties must not be controlling. ''Service'' includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. That tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. Sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property.

(b) *Contract clause.* Insert the clause at 52.229–10, State of New Mexico Gross Receipts and Compensating Tax, in solicitations and contracts other than those for commercial products or commercial services issued by the agencies identified in paragraph (c) of this section when all three of these conditions exist:

(1) The contractor will be performing a cost-reimbursement contract.

(2) The contract directs or authorizes the contractor to acquire tangible personal property as a direct cost under the contract and title to such property passes directly to and vests in the United States upon delivery by the vendor.

(3) The contract will be for services to be performed wholly or partly within New Mexico.

(c) Participating agencies.

(1) The agencies listed below have an agreement with the State of New Mexico to eliminate double taxation of Government cost-reimbursement contracts when contractors and their subcontractors purchase tangible personal property to be used in performing services wholly or partly in New Mexico, and when title to such property will pass to the United States upon delivery of the property to the contractor and its subcontractors by the vendor. Therefore, the clause applies only to solicitations and contracts issued by the—United States Defense Advanced Research Projects Agency; United States Defense Threat Reduction Agency; United States Department of Agriculture; United States Department of the Air Force; United States Department of the Army; United States Department of Energy; United States Department of Health and Human Services; United States Department of the Interior; United States Department of Labor; United States Department of the Navy; United States Department of Transportation; United States General Services Administration; United States Missile Defense Agency; and United States National Aeronautics and Space Administration.

(2) Any other Federal agency expecting to award cost-reimbursement contracts to be performed in New Mexico should contact the New Mexico Taxation and Revenue Department to execute a similar agreement.

29.402 Foreign contracts.

29.402–1 Foreign fixed-price contracts.

(a) Insert the clause at 52.229–6, Taxes-Foreign Fixed-Price Contracts, in solicitations and contracts, including those for commercial products or commercial services, if the acquisition value exceeds the simplified acquisition threshold when planning a fixed-price contract to be performed wholly or partly in a foreign country, unless the contract will be with a foreign government.

(b) Insert the clause at 52.229–7, Taxes-Fixed-Price Contracts with Foreign Governments, in solicitations and contracts, other than those for commercial products or commercial services, that exceed the simplified acquisition threshold when planning a fixed-price contract with a foreign government.

29.402–2 Foreign cost-reimbursement contracts.

(a) Insert the clause at 52.229–8, Taxes-Foreign Cost-Reimbursement Contracts, in solicitations and contracts other than those for commercial products or commercial services, when planning a cost-reimbursement contract to be performed wholly or partly in a foreign country, unless the contract will be with a foreign government.

(b) Insert the clause at 52.229–9, Taxes-Cost-Reimbursement Contracts with Foreign Governments, in solicitations and contracts other than those for commercial products or commercial services, when planning a cost-reimbursement contract with a foreign government.

29.402–3 Tax on certain foreign procurements.

(a) Insert the provision at 52.229–11, Tax on Certain Foreign Procurements—Notice and Representation, in solicitations, including those for commercial products and commercial services, except for—

(1) Acquisitions using simplified acquisition procedures that do not exceed the simplified acquisition threshold;

(2) Emergency acquisitions using the emergency acquisition flexibilities defined in part 26;

(3) Acquisitions using the unusual and compelling urgency authority in part 6;

(4) Contracts with a single individual for personal services that will not exceed the simplified acquisition threshold on an annual calendar year basis for all years of the contract; and

(5) Acquisitions the requiring activity identifies as requirements for certain foreign humanitarian assistance contracts that are payments made by U.S. Government agencies under a contract with a foreign contracting party to obtain goods or services described in or authorized under 7 U.S.C. 1691, *et seq.,* 22 U.S.C. 2151, *et seq.,* 22 U.S.C 2601 *et seq.,* 22 U.S.C. 5801 *et seq.,* 22 U.S.C. 5401 *et seq.,* 10 U.S.C. 402, 10 U.S.C. 404, 10 U.S.C. 407, 10 U.S.C. 2557, and 10 U.S.C. 2561.

(b) Insert the clause at 52.229–12, Tax on Certain Foreign Procurements, in—

(1) Solicitations that contain the provision at 52.229–11, Tax on Certain Foreign Procurements—Notice and Representation; and

(2) Resulting contracts for which the contractor indicated it was a foreign person in solicitation provision 52.229–11, Tax on Certain Foreign Procurements—Notice and Representation.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 2. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

■ 3. Revise section 52.224–1 through 52.224–3 to read as follows:

52.224–1 Privacy Act Notification.

As prescribed in 24.104(a), insert the following clause in solicitations and contracts:

Privacy Act Notification (Date)

The Contractor will be required to design, develop, or operate a system of records, to accomplish an agency function, subject to the Privacy Act of 1974, Public Law 93–579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations. Violation of the Act may involve the imposition of criminal penalties.

52.224–2 Privacy Act.

As prescribed in 24.104(b), insert the following clause in solicitations and contracts:

Privacy Act (Date)

(a) The Contractor agrees to— (1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records to accomplish an agency function when the contract identifies the design, development, or operation work that the contractor is to perform;

(2) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, including those for commercial products or commercial services, when the work statement in the proposed subcontract provides for the design, development, or operation of a system of records that is subject to the Act.

(b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records to accomplish an agency function, the Contractor and any employee of the Contractor is considered to be an employee of the agency.

(c)(1) ''*Operation of a system of records,*'' as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, maintenance, or dissemination of records.

(2) ''*Record,*'' as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

(3) ''*System of records,*'' as used in this clause, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(d) Include this clause, including this paragraph (d) in all subcontracts awarded under this contract, including those for commercial products or commercial services, which require the design, development, or operation of such a system of records.

(End of clause)

52.224–3 Privacy Training.

As prescribed in 24.302(a), insert the following clause:

Privacy Training (Date)

(a) *Definition.* As used in this clause, ''personally identifiable information'' means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual. (See Office of Management and Budget (OMB) Circular A–130, Managing Federal Information as a Strategic Resource).

(b) *Responsibilities.* The Contractor must ensure that initial privacy training, and annual privacy training thereafter, is completed by contractor employees who—

(1) Have access to a system of records;

(2) Create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information on behalf of an agency; or—

(3) Design, develop, maintain, or operate a system of records (see also FAR subpart 24.3 and 39.105).

(c) *Requirements.*

(1) Privacy training must address the key elements necessary for ensuring the safeguarding of personally identifiable information or a system of records. The training must be role-based, provide foundational as well as more advanced levels of training, and have measures in place to test the knowledge level of users. At a minimum, the privacy training must cover—

(i) The provisions of the Privacy Act of 1974 (5 U.S.C. 552a), including penalties for violations of the Act;

(ii) The appropriate handling and safeguarding of personally identifiable information;

(iii) The authorized and official use of a system of records or any other personally identifiable information;

(iv) The restriction on the use of unauthorized equipment to create, collect, use, process, store, maintain, disseminate, disclose, dispose or otherwise access personally identifiable information;

(v) The prohibition against the unauthorized use of a system of records or unauthorized disclosure, access, handling, or use of personally identifiable information; and

(vi) The procedures to be followed in the event of a suspected or confirmed breach of a system of records or the unauthorized disclosure, access, handling, or use of personally identifiable information (see OMB guidance for Preparing for and Responding to a Breach of Personally Identifiable Information).

(2) Completion of an agency-developed or agency-conducted training course must be deemed to satisfy these elements.

(d) *Documentation.* The Contractor must maintain and, upon request, provide documentation of completion of privacy training to the Contracting Officer.

(e) *Restriction.* The Contractor must not allow any employee access to a system of records, or permit any employee to create, collect, use, process, store, maintain, disseminate, disclose, dispose or otherwise handle personally identifiable information, or to design, develop, maintain, or operate a system of records unless the employee has completed privacy training, as required by this clause.

(f) *Subcontracts.* The substance of this clause, including this paragraph (f), must be included in all subcontracts at any tier, including those for commercial products or commercial services, under this contract, when subcontractor employees will—

(1) Have access to a system of records;

(2) Create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information; or

(3) Design, develop, maintain, or operate a system of records.

(End of clause)

Alternate I (Date). As prescribed in 24.302 (b), substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) *Provider.* The contracting agency will provide initial privacy training, and annual privacy training thereafter, to Contractor employees for the duration of this contract.

■ 4. Revise sections 52.229–1 through 52.229–4 to read as follows:

52.229–1 State and Local Taxes.

As prescribed in 29.401–1, insert the following clause:

State and Local Taxes (DATE)

Notwithstanding the terms of the Federal, State, and Local Taxes clause, the contract price excludes all State and local taxes levied on or measured by the contract or sales price of the services or completed supplies furnished under this contract. The Contractor must state separately on its invoices taxes excluded from the contract price, and the Government agrees either to pay the amount of the taxes to the Contractor or provide evidence necessary to sustain an exemption.

(End of clause)

52.229–2 North Carolina State and Local Sales and Use Tax.

As prescribed in 29.401–2, insert the following clause:

North Carolina State and Local Sales and Use Tax (DATE)

(a) ''*Materials,*'' as used in this clause, means building materials, supplies, fixtures, and equipment that become a part of or are annexed to any building or structure erected, altered, or repaired under this contract.

(b) If this is a fixed-price contract, the contract price includes North Carolina State and local sales and use taxes to be paid on materials, notwithstanding any other provision of this contract. If this is a cost-reimbursement contract, any North Carolina State and local sales and use taxes paid by the Contractor on materials must constitute an allowable cost under this contract.

(c) At the time specified in paragraph (d) of this clause, the Contractor must furnish the Contracting Officer certified statements setting forth the cost of the materials purchased from each vendor and the amount of North Carolina State and local sales and use taxes paid. In the event the Contractor makes several purchases from the same vendor, the certified statement must indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices, and the North Carolina State and local sales and use taxes paid. The statement must also include the cost of any tangible personal property withdrawn from the Contractor's warehouse stock and the amount of North Carolina State and local sales or use tax paid on this property by the Contractor. The Contractor must show any local sales or use taxes included in the Contractor's statements separately from the State sales or use taxes. The Contractor must furnish any additional information the Commissioner of Revenue of the State of North Carolina may require to substantiate a refund claim for sales or use taxes. The Contractor must also obtain and furnish to the Contracting Officer similar certified statements by its subcontractors.

(d) If this contract is completed before the next October 1, the Contractor must submit certified statements to be furnished pursuant to paragraph (c) of this clause within 60 days after completion. If this contract is not completed before the next October 1, the Contractor must submit certified statements on or before November 30 of each year that include taxes paid during the 12-month period that ended the preceding September 30.

(e) The Contractor must use the following format for the certified statements to be furnished pursuant to paragraph (c) of this clause:

I hereby certify that during the period ____ to ____ [*insert dates*], ____ [*insert name of Contractor or subcontractor*] paid North Carolina State and local sales and use taxes aggregating $____ (State) and $____ (local), with respect to building materials, supplies, fixtures, and equipment that have become a part of or annexed to a building or structure erected, altered, or repaired by ____ [*insert name of Contractor or subcontractor*] for the United States of America, and that the vendors from whom the property was purchased, the dates and numbers of the invoices covering the purchases, the total amount of the invoices of each vendor, the North Carolina State and local sales and use taxes paid on the property (shown separately), and the cost of property withdrawn from warehouse stock and North Carolina State and local sales or use taxes paid on this property are as set forth in the attachments.

Alternate I (DATE). If the requirement is for vessel repair to be performed in North Carolina, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(a) ''Materials,'' as used in this clause, means materials, supplies, fixtures, and equipment that become a part of or are annexed to any vessel altered or repaired under this contract.

(End of clause)

52.229–3 Federal, State, and Local Taxes.

As prescribed in 29.401–3(a), insert the following clause:

Federal, State, and Local Taxes (DATE)

(a) As used in this clause—

After-imposed Federal tax means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

After-relieved Federal tax means any amount of Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

All applicable Federal, State, and local taxes and duties means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

Contract date means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

Local taxes includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

(b)(1) The contract price includes all applicable Federal, State, and local taxes and duties, except as provided in subparagraph (b)(2)(i) of this clause.

(2) Taxes imposed under 26 U.S.C. 5000C may not be—

(i) Included in the contract price; nor

(ii) Reimbursed.

(c) The Government will increase the contract price by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(d) The Government will decrease the contract price by the amount of any after-relieved Federal tax.

(e) The Government will decrease the contract price by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) The Government will not adjust the contract price under this clause unless the amount of the adjustment exceeds $250.

(g) The Contractor must promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and must take appropriate action as the Contracting Officer directs.

(h) The Government will, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

(End of clause)

52.229–4 Federal, State, and Local Taxes (State and Local Adjustments).

As prescribed in 29.401–3(b), insert the following clause:

Federal, State, and Local Taxes (State and Local Adjustments) (DATE)

(a) As used in this clause—

After-imposed tax means any new or increased Federal, State, or local tax or duty, or tax that was excluded on the contract date but whose exclusion was later revoked or amount of exemption reduced during the contract period, other than an excepted tax, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date.

After-relieved tax means any amount of Federal, State, or local tax or duty, other than an excepted tax, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

All applicable Federal, State, and local taxes and duties means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

Contract date means the effective date of this contract and, for any modification to this contract, the effective date of the modification.

Excepted tax means social security or other employment taxes, net income and franchise taxes, excess profits taxes, capital stock taxes, transportation taxes, unemployment compensation taxes, and property taxes. ''Excepted tax'' does not include gross income taxes levied on or measured by sales or receipts from sales, property taxes assessed on completed supplies covered by this contract, or any tax assessed on the Contractor's possession of, interest in, or use of property, title to which is in the Government.

Local taxes includes taxes imposed by a possession or territory of the United States,

Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

(b)(1) Unless otherwise provided in this contract, the contract price includes all applicable Federal, State, and local taxes and duties, except as provided in subparagraph (b)(2)(i) of this clause.

(2) Taxes imposed under 26 U.S.C. 5000C may not be—

(i) Included in the contract price; nor

(ii) Reimbursed.

(c) The Government will increase the contract price by the amount of any after-imposed tax, or of any tax or duty specifically excluded from the contract price by a term or condition of this contract that the Contractor is required to pay or bear, including any interest or penalty, if the Contractor states in writing that the contract price does not include any contingency for such tax and if liability for such tax, interest, or penalty was not incurred through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(d) The Government will decrease the contract price by the amount of any after-relieved tax. The Government must be entitled to interest received by the Contractor incident to a refund of taxes to the extent that such interest was earned after the Contractor was paid by the Government for such taxes. The Government will be entitled to repayment of any penalty refunded to the Contractor to the extent that the penalty was paid by the Government.

(e) The Government will decrease the contract price by the amount of any Federal, State, or local tax, other than an excepted tax, that was included in the contract price and that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) The Government will not adjust the contract price under this clause unless the amount of the adjustment exceeds $250.

(g) The Contractor must promptly notify the Contracting Officer of all matters relating to Federal, State, and local taxes and duties that reasonably may be expected to result in either an increase or decrease in the contract price and must take appropriate action as the Contracting Officer directs. The contract price must be equitably adjusted to cover the costs of action taken by the Contractor at the direction of the Contracting Officer, including any interest, penalty, and reasonable attorneys' fees.

(h) The Government will furnish evidence appropriate to establish exemption from any Federal, State, or local tax when—

(1) The Contractor requests such exemption and states in writing that it applies to a tax excluded from the contract price; and

(2) A reasonable basis exists to sustain the exemption.

(End of clause)

52.229–5 [Removed and Reserved]

■ 5. Remove and reserve section 52.229–5.

■ 6. Revise sections 52.229–6 through 52.229–12 to read as follows:

52.229–6 Taxes—Foreign Fixed-Price Contracts.

As prescribed in 29.402–1(a), insert the following clause:

Taxes—Foreign Fixed-Price Contracts (Date)

(a) To the extent that this contract provides for furnishing supplies or performing services outside the United States and its outlying areas, this clause applies in lieu of any Federal, State, and local taxes clause of the contract.

(b) *Definitions.* As used in this clause—

All applicable taxes and duties means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract, pursuant to written ruling or regulation in effect on the contract date.

After-imposed tax means any new or increased tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, other than excepted tax, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date.

After-relieved tax means any amount of tax or duty, other than an excepted tax, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund, as the result of legislative, judicial, or administrative action taking effect after the contract date.

Contract date means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

Country concerned means any country, other than the United States and its outlying areas, in which expenditures under this contract are made.

Excepted tax means social security or other employment taxes, net income and franchise taxes, excess profits taxes, capital stock taxes, transportation taxes, unemployment compensation taxes, and property taxes. *Excepted tax* does not include gross income taxes levied on or measured by sales or receipts from sales, property taxes assessed on completed supplies covered by this contract, or any tax assessed on the Contractor's possession of, interest in, or use of property, title to which is in the U.S. Government.

Tax and *taxes* include fees and charges for doing business that are levied by the government of the country concerned or by its political subdivisions.

(c)(1) Unless otherwise provided in this contract, the contract price includes all applicable taxes and duties, except taxes and duties that the Government of the United States and the government of the country concerned have agreed must not be applicable to expenditures in such country by or on behalf of the United States, except as provided in paragraph (c)(2) of this clause.

(2) Taxes imposed under 26 U.S.C. 5000C may not be—

(i) Included in the contract price; nor

(ii) Reimbursed.

(d)(1) Except as provided in paragraph (d)(2) of this clause, the Government will increase the contract price by the amount of any after-imposed tax or of any tax or duty specifically excluded from the contract price by a provision of this contract that the Contractor is required to pay or bear, including any interest or penalty, if the Contractor states in writing that the contract price does not include any contingency for such tax and if liability for such tax, interest, or penalty was not incurred through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer or to comply with the requirements of paragraph (i) of this clause.

(2) The Government will not increase the contract price to offset taxes imposed under 26 U.S.C. 5000C.

(e) The Government will decrease the contract price by the amount of any after-relieved tax, including any interest or penalty. The Government of the United States will be entitled to interest received by the Contractor incident to a refund of taxes to the extent that such interest was earned after the Contractor was paid by the Government of the United States for such taxes. The Government of the United States will be entitled to repayment of any penalty refunded to the Contractor to the extent that the penalty was paid by the Government.

(f) The Government will decrease the contract price by the amount of any tax or duty, other than an excepted tax, that was included in the contract and that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer or to comply with the requirements of paragraph (i) of this clause.

(g) The Government will not adjust the contract price under this clause unless the amount of the adjustment exceeds $250.

(h) If the Contractor obtains a reduction in tax liability under the United States Internal Revenue Code (Title 26, U.S. Code) because of the payment of any tax or duty that either was included in the contract price or was the basis of an increase in the contract price, the Contractor must pay or credit the amount of the reduction to the Government of the United States as the Contracting Officer directs.

(i) The Contractor must take all reasonable action to obtain exemption from or refund of any taxes or duties, including interest or penalty, from which the United States Government, the Contractor, any subcontractor, or the transactions or property covered by this contract are exempt under the laws of the country concerned or its political subdivisions or which the governments of the United States and of the country concerned have agreed must not be applicable to expenditures in such country by or on behalf of the United States.

(j) The Contractor must promptly notify the Contracting Officer of all matters relating to taxes or duties that reasonably may be expected to result in either an increase or

decrease in the contract price and must take appropriate action as the Contracting Officer directs. The Government will equitably adjust the contract price to cover the costs of action taken by the Contractor at the direction of the Contracting Officer, including any interest, penalty, and reasonable attorneys' fees.

(End of clause)

52.229–7 Taxes—Fixed-Price Contracts with Foreign Governments.

As prescribed in 29.402–1(b), insert the following clause:

■ Taxes—Fixed-Price Contracts With Foreign Governments (Date)

(a) *Contract date,* as used in this clause, means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

(b)(1) The contract price, including the prices in any subcontracts under this contract, does not include any tax or duty that the Government of the United States and the Government of ____ [insert name of the foreign government] have agreed must not apply to expenditures made by the United States in ____ [insert name of country], or any tax or duty not applicable to this contract or any subcontracts under this contract, pursuant to the laws of ____ [insert name of country]. If any such tax or duty has been included in the contract price, through error or otherwise, the contract price must be correspondingly reduced.

(2) Taxes imposed under 26 U.S.C. 5000C may not be included in the contract price.

(c) If, after the contract date, the Government of the United States and the Government of ____ [insert name of the foreign government] agree that any tax or duty included in the contract price must not apply to expenditures by the United States in ____ [insert name of country], the Government of the United States will reduce the contract price accordingly.

(d) The Government of the United States will not adjust the contract price under this clause unless the amount of the adjustment exceeds $250.

(End of clause)

52.229–8 Taxes—Foreign Cost-Reimbursement Contracts.

As prescribed in 29.402–2(a), insert the following clause:

Taxes—Foreign Cost-Reimbursement Contracts (Date)

(a) Any tax or duty from which the United States Government is exempt by agreement with the Government of ____ [insert name of the foreign government], or from which the Contractor or any subcontractor under this contract is exempt under the laws of ____ [insert name of country], must not constitute an allowable cost under this contract.

(b) If the Contractor or subcontractor under this contract obtains a foreign tax credit that reduces its Federal income tax liability under the United States Internal Revenue Code (Title 26, U.S. Code) because of the payment of any tax or duty that was reimbursed under this contract, the Contractor must pay or credit the amount of the reduction at the time of such offset to the Government of the United States as the Contracting Officer directs.

(End of clause)

52.229–9 Taxes—Cost-Reimbursement Contracts with Foreign Governments.

As prescribed in 29.402–2(b), insert the following clause:

Taxes—Cost-Reimbursement Contracts With Foreign Governments (Date)

(a) Any tax or duty from which the United States Government is exempt by agreement with the Government of ____ [insert name of the foreign government], or from which any subcontractor under this contract is exempt under the laws of ____ [insert name of country], must not constitute an allowable cost under this contract.

(b) If any subcontractor obtains a foreign tax credit that reduces its Federal income tax liability under the United States Internal Revenue Code (Title 26, U.S. Code) because of the payment of any tax or duty that was reimbursed under this contract, the subcontractor must pay (not credit to the contract) the amount of the reduction to the Treasurer of the United States at the time the Federal income tax return is filed.

(End of clause)

52.229–10 State of New Mexico Gross Receipts and Compensating Tax.

As prescribed in 29.401–4(b), insert the following clause:

■ State of New Mexico Gross Receipts and Compensating Tax (DATE)

(a) Within 30 days after award of this contract, the Contractor must register the contract, including the contract number, with the State of New Mexico, Taxation and Revenue Department, Revenue Division, pursuant to the Tax Administration Act of the State of New Mexico.

(b) The Contractor must pay the New Mexico gross receipts taxes, required by the Gross Receipts and Compensating Tax Act of New Mexico, assessed against the contract fee and costs paid for performance of this contract, or of any part or portion thereof, within the State of New Mexico. The allowability of any gross receipts taxes or local option taxes lawfully paid to the State of New Mexico by the Contractor or its subcontractors will be determined by the contracting officer in accordance with the Allowable Cost and Payment clause of this contract except as provided in paragraph (d) of this clause.

(c)(1) The Contractor must submit applications for Nontaxable Transaction Certificates, Form CSR–3 C, to the: State of New Mexico Taxation and Revenue Dept., Revenue Division, PO Box 630, Santa Fe, New Mexico 87509.

(2) When the Type 15 Nontaxable Transaction Certificate is issued by the Revenue Division, the Contractor must use these certificates strictly in accordance with this contract, and the agreement between the [*_____] and the New Mexico Taxation and Revenue Department.

(d) The Contractor must provide Type 15 Nontaxable Transaction Certificates to each vendor in New Mexico selling tangible personal property to the Contractor for use in the performance of this contract. If the Contractor does not provide a Type 15 Nontaxable Transaction Certificate to a vendor, the vendor will be liable for the gross receipt taxes, which the vendor will pass on to the Contractor. Those taxes are not an allowable cost under the contract, and the Government will not reimburse the Contractor for the taxes.

(e) The Contractor must pay the New Mexico compensating user tax for any tangible personal property which is purchased pursuant to a Nontaxable Transaction Certificate if such property is not used for Federal purposes.

(f) The Contractor's out-of-state purchase of tangible personal property, which would be otherwise subject to compensation tax, is subject to the principles of this clause. Accordingly, Contractors must pay compensating tax if such property is not used for Federal purposes.

(g) The [*_____] may receive information regarding the Contractor from the Revenue Division of the New Mexico Taxation and Revenue Department and, at the discretion of the [*_____], may participate in any matters or proceedings pertaining to this clause or the Agreement mentioned in paragraph (c)(2) of this clause. This must not preclude the Contractor from having its own representative nor does it obligate the [*_____] to represent its Contractor.

(h) The Contractor agrees to insert this clause, including this paragraph (h), in each subcontract which meets the criteria in 29.401–4(b)(1) through (3) of the Federal Acquisition Regulation.

(i) Paragraphs (a) through (h) of this clause must be null and void should the Agreement referred to in paragraph (c)(2) of this clause be terminated; provided, however, that such termination shall not nullify obligations already incurred prior to the date of termination.

[*Insert appropriate agency name in blanks.]

(End of clause)

52.229–11 Tax on Certain Foreign Procurements—Notice and Representation.

As prescribed in 29.402–3(a), insert the following provision:

Tax on Certain Foreign Procurements—Notice and Representation (Date)

(a) *Definitions.* As used in this provision—

Foreign person means any person other than a United States person.

Specified Federal procurement payment means any payment made pursuant to a contract with a foreign contracting party that is for goods, manufactured or produced, or services provided in a foreign country that is not a party to an international procurement agreement with the United States. For purposes of the prior sentence, a foreign country does not include an outlying area of the United States.

United States person as defined in 26 U.S.C. 7701(a)(30) means—

(1) A citizen or resident of the United States;

(2) A domestic partnership;

(3) A domestic corporation;

(4) Any estate (other than a foreign estate, within the meaning of 26 U.S.C. 701(a)(31)); and

(5) Any trust if—

(i) A court within the United States is able to exercise primary supervision over the administration of the trust; and

(ii) One or more United States persons have the authority to control all substantial decisions of the trust.

(b) *Tax Imposition.* Unless exempted, there is a 2 percent tax of the amount of a specified Federal procurement payment on any foreign person receiving such payment. See 26 U.S.C. 5000C and its implementing regulations at 26 CFR 1.5000C–1 through 1.5000C–7.

(c) *Exemptions.* Exemptions from withholding under this provision are described at 26 CFR 1.5000C–1(d)(5) through (7). The Offeror may claim an exemption from the withholding by using the Department of the Treasury IRS Form W–14, Certificate of Foreign Contracting Party Receiving Federal Procurement Payments, available at *www.irs.gov/w14.* Any exemption claimed and self-certified on the IRS Form W–14 is subject to audit by the IRS. Any disputes regarding the imposition and collection of the 26 U.S.C. 5000C tax are adjudicated by the IRS as the 26 U.S.C. 5000C tax is a tax matter, not a contract issue. The IRS Form W–14 is provided to the acquiring agency rather than to the IRS.

(d) *Representations.* For purposes of withholding under 26 U.S.C. 5000C, the Offeror represents that:

(1) It □is □is not a foreign person; and

(2) If the Offeror indicates ''is'' in paragraph (d)(1) of this provision, then the Offeror represents that—I am claiming on the IRS Form W–14 □a full exemption, or □partial or no exemption [Offeror must select one] from the excise tax.

(e) *Contract Requirements for Foreign Persons.* If the Offeror represents it is a foreign person in paragraph (d)(1) of this provision, then—

(1) The clause at FAR 52.229–12, Tax on Certain Foreign Procurements, will be included in any resulting contract; and

(2) The Offeror must submit with its offer the IRS Form W–14. If the IRS Form W–14 is not submitted with the offer, exemptions will not be applied to any resulting contract and the Government will withhold a full 2 percent of each payment.

(f) *Withholding for Partial or No Exemption.* If the Offeror selects ''is'' in paragraph (d)(1) and ''partial or no exemption'' in paragraph (d)(2) of this provision, the Offeror will be subject to withholding in accordance with the clause at FAR 52.229–12, Tax on Certain Foreign Procurements, in any resulting contract.

(g) *IRS Guidance.* A taxpayer may, for a fee, seek advice from the IRS as to the proper tax treatment of a transaction. This is called a private letter ruling. Also, the IRS may publish a revenue ruling, which is an official interpretation by the IRS of the Internal Revenue Code, related statutes, tax treaties, and regulations. A revenue ruling is the conclusion of the IRS on how the law is applied to a specific set of facts. For questions relating to the interpretation of the IRS regulations go to *https://www.irs.gov/help/tax-law-questions.*

(End of provision)

52.229–12 Tax on Certain Foreign Procurements.

As prescribed in 29.402–3(b), insert the following clause:

Tax on Certain Foreign Procurements (Date)

(a) *Definitions.* As used in this clause—

Foreign person means any person other than a United States person.

United States person, as defined in 26 U.S.C. 7701(a)(30), means–

(1) A citizen or resident of the United States;

(2) A domestic partnership;

(3) A domestic corporation;

(4) Any estate (other than a foreign estate, within the meaning of 26 U.S.C. 7701(a)(31)); and

(5) Any trust if—

(i) A court within the United States is able to exercise primary supervision over the administration of the trust; and

(ii) One or more United States persons have the authority to control all substantial decisions of the trust.

(b) *Applicability.* This clause applies only to foreign persons. It implements 26 U.S.C. 5000C and its implementing regulations at 26 CFR 1.5000C–1 through 1.5000C–7.

(c) *Contractor Responsibilities.*

(1) If the Contractor is a foreign person and has only a partial or no exemption to the withholding, the Contractor must include the Department of the Treasury IRS Form W–14, Certificate of Foreign Contracting Party Receiving Federal Procurement Payments, with each voucher or invoice submitted under this contract throughout the period in which this status is applicable. The excise tax withholding is applied at the payment level, not at the contract level. The Contractor should revise each IRS Form W–14 submission to reflect the exemption (if any) that applies to that particular invoice, such as a different exemption applying. In the absence of a completed IRS Form W–14 accompanying a payment request, the default withholding percentage is 2 percent for the section 5000C withholding for that payment request. Information about IRS Form W–14 and its separate instructions is available via the internet at *www.irs.gov/w14.*

(2) If the Contractor—

(i) Is a foreign person; and

(ii) Has indicated in its offer in the provision 52.229–11, Tax on Certain Foreign Procurements—Notice and Representation, that it is fully exempt from the withholding; and

(iii) Certified the full exemption on the IRS Form W–14, and if that full exemption no longer applies due to a change in circumstances during the performance of the contract that causes the Contractor to become subject to the withholding for the 2 percent excise tax; then the Contractor must—

(A) Notify the Contracting Officer within 30 days of a change in circumstances that causes the Contractor to be subject to the excise tax withholding under 26 U.S.C. 5000C; and

(B) Comply with paragraph (c)(1) of this clause.

(d) *Withholding Procedures.* The Government will withhold a full 2 percent of each payment unless the Contractor claims an exemption. If the Contractor enters a ratio in Line 12 of the IRS Form W–14, the result of Line 11 divided by Line 10, the Government will withhold from each payment an amount equal to 2 percent multiplied by the contract ratio. If the Contractor marks box 9 of the IRS Form W–14 (rather than completes Lines 10 through 12), the Contractor must identify and enter the specific exempt and nonexempt amounts in Line 15 of the IRS Form W–14; the Government will then withhold 2 percent only from the nonexempt amount. See the IRS Form W–14 and its instructions.

(e) *Exemptions.* Exemptions from the withholding under this clause are described at 26 CFR 1.5000C–1(d)(5) through (7). Any exemption claimed and self-certified on the IRS Form W–14 is subject to audit by the IRS. Any disputes regarding the imposition and collection of the 26 U.S.C. 5000C tax are adjudicated by the IRS as the 26 U.S.C. 5000C tax is a tax matter, not a contract issue.

(f) *Treatment of Taxes.* Taxes imposed under 26 U.S.C. 5000C may not be—

(1) Included in the contract price; nor

(2) Reimbursed.

(g) *IRS Guidance.* A taxpayer may, for a fee, seek advice from the IRS as to the proper tax treatment of a transaction. This is called a private letter ruling. Also, the IRS may publish a revenue ruling, which is an official interpretation by the IRS of the Internal Revenue Code, related statutes, tax treaties, and regulations. A revenue ruling is the conclusion of the IRS on how the law is applied to a specific set of facts. For questions relating to the interpretation of the IRS regulations go to *https://www.irs.gov/help/tax-law-questions.*

(End of clause)

52.229–13 [Removed and Reserved]

52.229–14 [Removed and Reserved]

■ 7. Remove and reserve sections 52.229–13 and 52.229–14.

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Part VI

Office of Management and Budget

Office of Federal Procurement Policy

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 3, 49, and 52

Federal Acquisition Regulation: Revolutionary Federal Acquisition Regulation Overhaul Parts 3 and 49; Proposed Rule

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 3, 49, and 52

[FAR Case 2026–007, Docket No. FAR–2026–0007, Sequence No. 1]

RIN 9000–AO92

Federal Acquisition Regulation: Revolutionary Federal Acquisition Regulation Overhaul Parts 3 and 49

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB); Department of Defense (DoD); General Services Administration (GSA); and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: OFPP, DoD, GSA, and NASA (collectively referred to as the Federal Acquisition Regulatory Council or FAR Council) are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 14275, Restoring Common Sense to Federal Procurement. The E.O. directs the elimination of excessive acquisition regulations to stop the inefficient use of American taxpayer dollars. The FAR Council is issuing twelve proposed rules that collectively will streamline the FAR in its entirety. This rule proposes revisions to FAR parts 3 and 49.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before July 23, 2026, to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2026–007 to the Federal eRulemaking portal at *https://www.regulations.gov.* Follow the instructions for sending comments.

Instructions: Please submit comments only and cite ''FAR Case 2026–007'' in all correspondence related to this case. Include your name, company name (if any), and ''FAR Case 2026–007'' on any attached document. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. Public comments may be submitted as an individual, as an organization, or anonymously (see frequently asked questions at *https://www.regulations.gov/faq*). To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov/FAR-2026-007.*

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact *FARpolicy@gsa.gov* or call 202–969–4075 and cite ''FAR Case 2026–007.'' For information pertaining to status, publication schedules, or alternate instructions for submitting comments if *https://www.regulations.gov* cannot be used, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite ''FAR Case 2026–007.''

SUPPLEMENTARY INFORMATION:

I. Background

E.O. 14275, *Restoring Common Sense to Federal Procurement* (April 15, 2925), resets the foundation for Federal buying by requiring the FAR Council to produce a streamlined FAR that is simpler, clearer, and structured for speed. According to the E.O., the FAR has evolved from its original purpose (*i.e.,* to establish uniform procedures across executive departments and agencies), into an excessive and overcomplicated regulatory framework and bureaucracy. While meant to ''deliver, on a timely basis, the best value product or service to the customer, while maintaining the public's trust and fulfilling public policy objectives,'' the FAR has become an expensive barrier to achieving those objectives. As a result, the E.O. directed the FAR Council and OMB to create an agile, effective, and efficient regulation that contains only provisions required by statute or essential to sound procurement.

To implement E.O. 14275, OMB issued Memorandum M–25–26, Overhauling the Federal Acquisition Regulation, which announced the ''Revolutionary FAR Overhaul'' (RFO) and created a roadmap for producing simpler regulations aligned to statute, rewritten in plain language, and including nonstatutory requirements that are necessary to conducting a sound procurement. The memorandum described a new streamlined vision for the FAR, to be maintained alongside nonregulatory governmentwide guidance to provide a common-sense authoritative foundation for nimble response and delivery of mission capability.

This new vision represents a paradigm shift where over-engineered regulations designed for paperwork and compliance are replaced with streamlined regulations focused on core stewardship principles and nonregulatory guidance that will be used in concert with the streamlined FAR focused on proven buying strategies, critical thinking, market awareness (including to expand awareness of goods, products, and materials offered in the United States), and risk literacy to enhance workforce problem-solving. The significant reduction of unnecessary mandates is intended to clarify and reinforce the contracting officer's discretion to determine the best way to apply policies and practices. The newly established, nonregulatory guidance, which has been inspired by acquisition innovation advocates, category managers, other experienced practitioners, and many years of feedback from the contractor community—is expected to facilitate contracting officers' use of their discretion more efficiently and effectively to make smarter buying decisions.

OMB Memorandum M–25–26 also directed the FAR Council to complete the regulatory overhaul in two phases, each with robust public input. The FAR Council conducted its phase one effort in fiscal year 2025 by issuing model class deviations to replace each part in the FAR until such time as formal rulemaking occurred. This proposed rule is one of a series that constitute the FAR Council's phase two effort to obtain public comment through formal rulemaking.

II. Discussion and Analysis

A summary of proposed changes to existing FAR parts 3 and 49, and their corresponding provisions and clauses in part 52 are as follows:

A. General

1. General RFO Updates

This proposed rule generally reorganizes the FAR parts into phases of acquisition and simplifies the text into plain language, where possible. The plain language efforts include changes to active voice, edits to improve readability, and reorganization to present information more logically. None of the plain language edits are intended to change existing FAR requirements. The rewriting of the entire FAR also required edits to harmonize the changes being proposed such as updating the cross-references.

This aligns with the Federal plain language guidelines as directed by the Plain Writing Act of 2010 (5 U.S.C. 301 note).

2. Standardization of Prescriptions

This rule proposes revisions to standardize prescriptions for provisions and clauses. These changes are intended to provide better clarity around the applicability of provisions and clauses such as whether they apply to commercial products and commercial services.

3. Use of ''Must'' Instead of ''Shall''

Additional revisions are being proposed throughout the FAR text and FAR provisions and clauses to replace the use of the term ''shall'' with ''must'' or ''will,'' as appropriate, to impose requirements.

4. Non-Statutory Requirements

Section 4 of the E.O. required amendments to the FAR to ensure it contains only provisions that are required by statute or that are otherwise necessary to support simplicity and usability, strengthen the efficacy of the procurement system, or protect economic or national security. The FAR Council reviewed all non-statutory requirements to determine if they are still relevant and essential to sound procurement in today's contracting environment based on the criteria from section 4 of the E.O. The proposed rule retains non-statutory requirements that further one or more of the elements of sound procurements, including those requirements that serve as guardrails to protecting taxpayer interests and promote taxpayer confidence in the procurement system. Non-statutory requirements that were beneficial but not essential were retained in the non-regulatory guidance documents. Other non-statutory requirements that did not meet these standards, were removed. The Council considered the extent to which regulation is the most efficient means for capturing the benefit of the policy. For example, most ''how to'' requirements were found to be more appropriately suited for non-regulatory coverage which better enables a contracting officer to use discretion in determining the application of a strategy to a given situation and limits the risk of overapplication, which can create wasteful burden on the contracting parties.

As part of the RFO, the FAR Council has created a number of non-regulatory resources, including the FAR Companion, which provides insight from experienced practitioners across the government on using more streamlined practices and processes. The migration of significant coverage to non-regulatory guidance is intended to ensure that the benefits of the policy are not outweighed by the compliance burden of a more rigidly written regulation that is prone to application in an overly broad manner. This approach was explained to the public in a set of ''frequently asked questions'' that were posted on the Revolutionary FAR Overhaul homepage shortly after the initiative was launched.

B. Summary of Proposed Changes to FAR Part 3, Improper Business Practices and Personal Conflicts of Interest

1. Retain Statutorily Based Requirements

FAR part 3 was reviewed comprehensively to distinguish provisions and clauses grounded in statute from those that were discretionary, duplicative, or informational in nature, consistent with the policy objectives of Executive Order No. 14275, *Restoring Common Sense to Federal Procurement,* 90 FR 16447 (2025). As a result of this review, this rule retains all statutory requirements governing improper business practices and personal conflicts of interest, including 10 U.S.C. 4651; 10 U.S.C. 4655; 41 U.S.C. 4704; 18 U.S.C. 208; 18 U.S.C. 218; 41 U.S.C. 2101 *et seq.;* 41 U.S.C. 3509; 41 U.S.C. 4712; 41 U.S.C. 8701 *et seq.;* and Executive Order No. 12731, *Principles of Ethical Conduct for Government Officers and Employees;* among others. These authorities ensure that the FAR continues to provide clear, stable, and enforceable ethical standards, advancing the objectives of Executive Order No. 14275, to promote regulatory discipline, usability, and common-sense procurement.

2. Remove Obsolete and Duplicative Sections

The revisions to FAR part 3 eliminate provisions that are obsolete, duplicative, or nonstatutory in nature. These revisions include removal of references to the superseded Executive Order No. 11222, *Prescribing Standards of Ethical Conduct for Government Officers and Employees,* 30 FR 6469 (1965), in subsection 3.101–3, *Agency Requirements;* removal of section 3.301, *General,* which was informational in nature; removal of agency guidance in section 3.406, *Records;* streamlining of section 3.700, *Scope of Subpart;* and removal of section 3.907, *Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009,* which is now obsolete because all funds appropriated under the Act are expired. Additionally, outdated antitrust violation instructions were removed.

These changes do not deviate from existing statutory authorities or ethical standards. Instead, they streamline the regulatory text, improve internal consistency, and enhance clarity and usability for contracting officers and contractors by removing provisions that are obsolete, duplicative, or no longer applicable.

3. Clarification of Procedures for Reviewing Improperly Marked Information

This rule revises FAR 3.104–4 to modernize and clarify the procedures for protecting contractor bid or proposal information and source selection information. The revision updates cross-references to FAR sections 14.303(a), 14.301(c), 41.211–3(a)(3), and 15.108, and adds a new process for reviewing markings that appear to be improperly applied. The changes require contracting officers to notify the offeror or contractor and provide a written justification period before canceling or ignoring markings and allow agencies to adjust the response period based on the needs of the acquisition. The rule replaces outdated references to technical data procedures in FAR part 27 with language tailored to procurement integrity determinations under FAR part 3, including clarifying the appropriate dispute avenues under applicable protest and claims processes. Additionally, the rule codifies statutory Freedom of Information Act (FOIA) protections by stating that proposals remain exempt from disclosure under 41 U.S.C. 4702 regardless of marking disputes and clarifies when agencies must modify procedures to comply with agency FOIA regulations. Collectively, these changes reinforce statutory protections, align processes with procurement integrity requirements, and improve clarity and usability for contracting officers, offerors, and contractors.

C. Summary of Proposed Changes to FAR Part 49

1. Retain Statutorily Based Subparts

FAR part 49 was comprehensively reviewed to identify the portions of the termination framework that remain required to implement statutory authorities governing contract terminations. As a result of this review, this rule retains all statutory requirements, including 10 U.S.C. 3201 *et seq.;* 41 U.S.C. 3301 et seq; 41 U.S.C. 3901; 40 U.S.C. 502; 41 U.S.C. 1303; 41 U.S.C. 3901; 41 U.S.C. ch 13; 41 U.S.C. 6502; 41 U.S.C. 7101–7109; 10 U.S.C.

3201 *et seq.;* among others. These authorities implement longstanding requirements, including the Government's right to terminate contracts for convenience, principles for determining fair compensation, statutory rights to recover excess costs following default, and the requirement to settle subcontractor claims in accordance with applicable statutes and judicial precedent. These subparts also incorporate statutory provisions governing the Government's ability to recover funds when contracts are voided or rescinded (49.700–49.705), and statutory accounting, payment, and property transfer requirements associated with termination actions. Preserving these statutory subparts ensures alignment with long-standing case law, maintains the integrity of the Government's termination authority, and continues to provide contracting officers and contractors with the legally required procedures for administering termination actions.

2. Remove Obsolete, Duplicative, or Nonstatutorily Based Sections

This rule removes or streamlines provisions in part 49 that are obsolete, duplicative of other FAR parts, or purely informational in nature and therefore unnecessary to retain in regulation. Several sections, including FAR 49.108–7 (Government Assistance in Settling Subcontracts), FAR 49.113 (Cost Principles), and FAR 49.405 (Completion by Another Contractor), contained narrative guidance or explanatory text that duplicated requirements addressed elsewhere in the FAR, such as cost principles in FAR part 31, property management in part 45, inspection and acceptance in FAR part 46, and Government claims and recovery authorities in FAR parts 1, 32, and 33. Additional outdated or duplicative material, including explanatory text related to termination inventory, settlement forms, and administrative practices now addressed through standardized processes or cross-referenced authorities, has been removed or consolidated into existing subparts. These revisions are consistent with the objectives of Executive Order No. 14275, *Restoring Common Sense to Federal Procurement.* Removing non-statutory and duplicative sections strengthens regulatory discipline, improves readability, reduces redundancy, and promotes consistent application of termination procedures while maintaining clear, stable, and enforceable requirements aligned with current statutes, case law, and modern acquisition practices.

3. Revise Audit of Prime Contractor and Subcontractor Termination Settlement Proposals From Mandatory to Permissive

This rule proposes revisions to FAR 49.107, Audit of Prime Contract Settlement Proposals and Subcontract Settlements, to replace the mandatory termination settlement proposal audit requirement with a permissive, risk-based approach. The revisions remove the certified cost or pricing data threshold as a trigger for audit and provide the termination contracting officer (TCO) discretion to determine whether audit support is appropriate based on the facts and risk of the settlement. These changes maintain appropriate oversight of risk associated proposals prepared in a noncompetitive environment, while improving flexibility in the administration of contract termination settlements, allowing audit resources to be applied where risk warrants and reducing unnecessary administrative burden for both the Government and contractors.

4. Revise Termination Settlement Proposal and Inventory Schedule Submission Timeframes

This rule proposes revisions to the timeframes for the submission of termination settlement proposals and inventory schedules in FAR sections 49.206–1, 49.206–3, 49.302(a), 49.303–1, 49.303–2, and 49.304–2, as well as the corresponding contract termination clauses at FAR 52.249–2, 52.249–3, 52.249–5, and 52.249–6. The revisions shorten the timeframe for submission of inventory schedules from 120 days to 60 days following termination and revises the timeframe for extension requests to within 30 days of termination notice rather than 120 days. The rule also revises the timeframe for submission of termination settlement proposals from 1 year to 90 days and revises the contractor extension request timeframe from 1 year to 60 days.

These changes are intended to improve the efficiency of the settlement process by addressing delays experienced under the current framework. The existing timeframes have, in practice, extended the overall resolution period for terminations, resulting in administrative inefficiencies for both contractors and the Government. The proposed reduction in required submission time is expected to support a more timely and orderly settlement process while maintaining flexibility where appropriate. Contractors may still request additional time when warranted by the complexity of a particular settlement, and contracting officers retain the discretion to consider and approve such requests on a reasonable basis. The Council does not anticipate that these changes will impose additional burden; rather, they streamline the process and clarify the expectations for timely submission to support more efficient closeout of terminated contracts.

5. Streamline and Improve Readability and Organization

This rule also proposes revisions to FAR part 49 to improve clarity, organization, and usability while preserving existing statutory authorities and long-standing termination policy. The revisions reorganized and streamlined regulatory text across Section 49.000, *Scope of Part,* Subpart 49.1, *General Principles;* Subpart 49.2, *Additional Principles for Fixed-Price Contracts Terminated for Convenience;* Subpart 49.3, *Additional Principles for Cost-Reimbursement Contracts Terminated for Convenience;* Subpart 49.4, *Termination for Default;* Subpart 49.5, *Contract Termination Clauses;* and Subpart 49.6, *Contract Termination Forms and Settlement Agreements,* without altering substantive rights or obligations.

This rule proposes to implement improved readability as a result of the plain-language edit. Sections 49.001, *Definitions,* and 49.002, *Applicability,* are retained and updated for plain language with a simpler structure. In addition, nonsubstantive comments were addressed through clarifying and corrective revisions. These included revising informal advisory language at 49.202, *Determining Profit,* with a plain-language edit stating that the TCO may use *any reasonable method* to determine a fair profit, taking into account specified factors; and restoring previously removed text specifying the interest rate computation for excess payments at 49.112–1, *Partial Payments,* to reflect applicable statutory requirements. Further nonsubstantive revisions corrected formatting, indentation, and spacing and reserved deleted sections to improve navigability and internal consistency.

6. Clarify Default Termination Procedures

This rule clarifies the organization and application of procedures in FAR subpart 49.4, *Termination for Default,* to ensure consistent use of cure notices and show-cause notices in accordance with long standing FAR practice. This rule refines the text to more clearly distinguish when a contracting officer should issue a cure notice versus when a show-cause notice is practicable, and

to preserve the established framework for determining the Government's rights following a contractor default. These revisions improve clarity, support consistent application of Default termination procedures, and reduce the potential for misinterpretation in administrative or judicial law.

D. Summary of Changes to FAR Part 52, Contract Clauses

1. Plain Language Update

As part of the broader plain language initiative, the term ''shall'' has been replaced with ''must'' throughout all affected clauses and prescriptions in this rulemaking to promote clarity and consistency. These updates will streamline contract drafting and compliance, reduce ambiguity, and save time for both contracting officers and contractors.

2. Clarification of FAR Clause Applicability to Commercial Products and Commercial Services

This rule clarifies the applicability of FAR part 52 clause prescriptions to commercial acquisitions to ensure consistent treatment across the FAR. Conforming revisions were made to prescriptions associated with FAR parts 3 and 49 to accurately reflect when clauses apply to commercial products and commercial services. Affected prescriptions include those at FAR 3.103–1, 3.104–9, 3.202, 3.404, 3.502–3, 3.503–2, 3.808, 3.906, 3.909–3, 3.1004, 3.1106, 49.502, 49.503, 49.504, and 49.505.

In addition, termination clauses at 52.249–2, 52.249–3, 52.249–5, 52.249–6, were revised to conform with timeframes for the submission of termination settlement proposals and inventory schedules, consistent with proposed changes at 49.206–3, 49.302(a), 49.303–1, 49.304–2, and 49.404–2. These conforming revisions ensure alignment between FAR part 49 and its associated clauses without introducing new termination rights or obligations.

3. Part 52 Renumbering

As a result of the RFO, the FAR Council is considering establishing a new FAR subpart in part 52 and relocating and renumbering all provisions and clauses under this new subpart. This means, if subpart 52.4 was used, all provisions and clauses would begin with 52.4 instead of 52.2. This change is anticipated to prevent confusion and increase compliance by creating a clear distinction between versions of a provision or clause prior to the RFO. Other benefits include avoiding potential clause numbering conflicts and information system and data collection impacts. The FAR Council welcomes comments on the potential impact of such a change on contractors, government personnel, and other stakeholders.

III. Applicability to Contracts and Subcontracts Valued at or Below the Simplified Acquisition Threshold and for Commercial Products, Commercially Available Off-The-Shelf Items, and Commercial Services

The following sections address the applicability of provisions and clauses prescribed in FAR parts 3 and 49 to solicitations and contracts valued at or below the simplified acquisition threshold (SAT) and those for the acquisition of commercial products, commercially available off-the-shelf (COTS) items, and commercial services. Prescriptions for provisions and clauses in these parts have been updated to reflect applicability to commercial acquisitions.

A. Contracts and Subcontracts Valued at or Below the Simplified Acquisition Threshold

This proposed rule, if finalized, does not alter the prescriptions of provisions and clauses included in this proposed rule to change their applicability to contracts and subcontracts valued at or below the SAT.

B. Contracts and Subcontracts for Commercial Products, Commercially Available Off-The-Shelf Items, and Commercial Services

41 U.S.C. 1906 governs the applicability of laws to contracts for the acquisition of commercial products and commercial services and gives the FAR Council the authority to determine to apply a law to contracts or subcontracts for the acquisition of commercial products and commercial services. 41 U.S.C. 1907 exempts contracts for commercially available off-the-shelf (COTS) items from certain provisions of law unless the Administrator for Federal Procurement Policy determines that doing so would not be in the best interest of the Federal Government.

Section 839 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232) required the FAR Council and the Administrator of Federal Procurement Policy to review prior determinations under 41 U.S.C. 1906 and 41 U.S.C. 1907, as well as the applicability of provisions and clauses to contracts and subcontracts for commercial products, COTS items, and commercial services that do not implement statute or Executive order, and propose amendments to the FAR to eliminate or exempt such requirements from commercial acquisitions, unless there are specific reasons to retain particular requirements.

In accordance with section 839 of the NDAA for FY 2019 and their authorities under 41 U.S.C. 1906 and 1907, the FAR Council reviewed the applicability of the provisions and clauses associated with the FAR parts covered by this proposed rule.

The following table reflects the FAR Council and Administrator of Federal Procurement Policy's proposed determination regarding the applicability of the provisions and clauses to solicitations and contracts for commercial products, COTS items, and/or commercial services. In making proposed applicability determinations, the FAR Council considered factors such as whether the provision or clause advances national security or economic security, contributes to the resilience of contractors and subcontractors in the Federal marketplace, or advances uniformity and clarity in the performance of basic functions that are essential to sound procurement.

Accordingly, this proposed rule, if finalized, would revise provision and clause prescriptions to clearly reflect applicability to commercial acquisitions as outlined in the table. An ''X'' in the following table indicates the provision or clause will apply to that category of commercial acquisition, as prescribed:

Provision/clause no.	Title	Commercial products	Commercial services	COTS items
52.203–2	Certificate of Independent Price Determination			
52.203–3	Gratuities	X	X	X
52.203–5	Covenant Against Contingent Fees			
52.203–6	Restrictions on Subcontractor Sales to the Government	X	X	X
52.203–6 Alt I	Restrictions on Subcontractor Sales to the Government			
52.203–7	Anti-Kickback Procedures			

Provision/clause no.	Title	Commercial products	Commercial services	COTS items
52.203–8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity.			
52.203–10	Price or Fee Adjustment for Illegal or Improper Activity			
52.203–11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.	X	X	X
52.203–12	Limitation on Payments to Influence Certain Federal Transactions	X	X	X
52.203–13	Contractor Code of Business Ethics and Conduct	X	X	X
52.203–14	Display of Hotline Poster(s)			
52.203–16	Preventing Personal Conflicts of Interest			
52.203–17	Contractor Employee Whistleblower Rights	X	X	X
52.203–18	Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements—Representation.	X	X	X
52.203–19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements.	X	X	X
52.249–1	Termination for Convenience of the Government (Fixed Price) (Short Form).			
52.249–1 Alt I	Termination for Convenience of the Government (Fixed-Price) (Short Form).			
52.249–2	Termination for Convenience of the Government (Fixed-Price)			
52.249–2 Alt I	Termination for Convenience of the Government (Fixed-Price)			
52.249–2 Alt II	Termination for Convenience of the Government (Fixed-Price)			
52.249–2 Alt III	Termination for Convenience of the Government (Fixed-Price)			
52.249–3	Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements).			
52.249–3 Alt I	Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements).			
52.249–4	Termination for Convenience of the Government (Services) (Short Form).			
52.249–5	Termination for Convenience of the Government (Educational and Other Nonprofit Institutions).			
52.249–6	Termination (Cost-Reimbursement)			
52.249–6 Alt I	Termination (Cost-Reimbursement)			
52.249–6 Alt II	Termination (Cost-Reimbursement)			
52.249–6 Alt III	Termination (Cost-Reimbursement)			
52.249–6 Alt IV	Termination (Cost-Reimbursement)			
52.249–7	Termination (Fixed-Price Architect-Engineer)			
52.249–8	Default (Fixed-Price Supply and Service)			
52.249–8 Alt I	Default (Fixed-Price Supply and Service)			
52.249–9	Default (Fixed-Price Research and Development)			
52.249–10	Default (Fixed-Price Construction)			
52.249–10 Alt I	Default (Fixed-Price Construction)			
52.249–10 Alt II	Default (Fixed-Price Construction)			
52.249–10 Alt III	Default (Fixed-Price Construction)			
52.249–12	Termination (Personal Services)			
52.249–14	Excusable Delays			

The FAR Council also reviewed subcontract flow down requirements in clauses associated with the FAR parts covered by this proposed rule. The following table reflects the FAR Council and Administrator of Federal Procurement Policy's proposal regarding whether those clauses flow down to subcontracts for commercial products, COTS items, and/or commercial services. This proposed rule, if finalized, would revise the subcontract paragraphs in these clauses to clearly state whether the clause flows down to commercial subcontracts, as outlined in the table. An ''X'' in the following table indicates the provision or clause will apply to subcontracts for that category of commercial subcontracts, as described in the clause:

Clause No.	Title	Commercial products	Commercial services	COTS items
52.203–6	Restrictions on Subcontractor Sales to the Government			
52.203–6 Alt I	Restrictions on Subcontractor Sales to the Government	X	X	X
52.203–7	Anti-Kickback Procedures			
52.203–12	Limitation on Payments to Influence Certain Federal Transactions	X	X	X
52.203–13	Contractor Code of Business Ethics and Conduct	X	X	X
52.203–14	Display of Hotline Poster(s)			
52.203–16	Preventing Personal Conflicts of Interest			
52.203–17	Contractor Employee Whistleblower Rights	X	X	X
52.203–19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements.	X	X	X

IV. Expected Impact of the Rule

The intended impact of the RFO, as stated in E.O. 14275, is to restore the Government's ability to ''deliver on a timely basis the best value product or service to the customer, while maintaining the public's trust and fulfilling public policy objectives.'' Each of the RFO rulemakings is designed to contribute to this impact by emphasizing mission first, by aligning acquisition activities directly to achieving the agency's overarching objectives and serving the public interest and elevating the importance of fiscal responsibility. The proposed RFO rules focus on three goals in particular: (1) timely acquisition and delivery, (2) lower cost and accountability in all spending, and (3) increased competition.

Timeliness. Timely acquisition and delivery are essential for mission success. To this end, RFO rules propose to eliminate mandates that unnecessarily interfere with agency discretion to determine the best way to procure products and services. The proposed RFO rules highlight more clearly streamlined and simplified authorities that allow buyers to use their time more efficiently and are expected to reduce time between solicitation and award. The proposed RFO rules are expected to make it easier for contracting officers to leverage commercial practices that are familiar to the commercial marketplace. This is expected to make it easier for sellers to engage and respond to Government solicitations more rapidly.

Lower cost. E.O. 14271, Ensuring Commercial, Cost-Effective Solutions in Federal Contracts (April 15, 2025), directs the Government to utilize, to the maximum extent practicable, the commercial marketplace and the innovations of private enterprise to provide better, more cost-effective services to taxpayers, as envisioned by the Federal Acquisition Streamlining Act. The procurement of custom products and services where a suitable or superior commercial solution would have fulfilled the Government's needs has resulted in avoidable waste to the detriment of American taxpayers.

To address these concerns, consistent with associated responsibilities in section 839 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232), the FAR Council reviewed prescriptions for provisions and clauses to ensure all prescriptions are clear regarding their applicability to acquisitions for commercial products and services. Currently, many prescriptions do not specify applicability to commercial acquisitions and leave the applicability determination to contracting officer interpretation. By specifically stating when a provision or clause can be applied to commercial acquisitions, proposed RFO rules should decrease the likelihood of inclusion of provisions and clauses in commercial acquisitions that are not required by law and drive greater consistency in the terms and conditions used in these contracts. In turn, these changes should increase the participation of commercial sellers, who are unwilling or unable to manage the cost of complying with noncommercial requirements, and also improve taxpayer access to affordable commercial solutions.

Some RFO rules propose to delete requirements placed on commercial or noncommercial sellers that are not related to performance of the contract, drive up cost without attendant performance benefits, and may misdirect efforts away from innovation, investment and economic growth. Greater emphasis on timeliness should reduce bidders' carrying costs, enabling them to pass those savings on to customers through lower prices.

Increased competition. Since enactment of the Competition in Contracting Act of 1984 (Title VII of Pub. L. 98–369), competition has been the cornerstone of the Federal acquisition system. The benefits of competition are well established: competition saves money for the taxpayer, improves contractor performance, curbs fraud, and promotes accountability for results. Competition also drives contractor resilience and positions the U.S. market to develop a strategic advantage for the nation.

According to data in the SAM Contract Award Management, roughly 45 percent of contract dollars were awarded in FY 2025 either without competition or with competition that received only one offer. Of equal concern, the Federal marketplace has seen a significant decline over the past 20 years in the number of businesses—especially small businesses—participating in the Federal supplier base. Studies suggest that high compliance costs lead to the misallocation of resources away from more profitable activities and discourage innovation, investment, and economic growth (Council of Economic Advisers, Executive Office of the President. June 2025. The Economic Benefits of Current Deregulatory Policies. *https://www.whitehouse.gov/wp-content/uploads/2025/03/The-Economic-Benefits-of-Current-Deregulatory-Efforts.pdf*). This may shelter incumbent contractors and stifle competition, reducing startup activity and job formation.

The RFO rules seek to increase participation in agency competitions and the resilience of the Federal supplier base, which includes commercial entities, small businesses, manufacturers, and nontraditional suppliers. The RFO will achieve this outcome by removing regulatory mandates that are not rooted in statute or essential to sound procurement, promoting greater reliance on practices that reduce transaction costs, and improving the quality of communications with offerors and potential offerors. Access to a broader range of solutions in a more dynamic marketplace will drive better return for each taxpayer dollar spent and increase taxpayer confidence in the Federal acquisition system.

The Government has conducted a regulatory impact analysis (RIA) for the RFO rulemaking inclusive of this proposed rule for FAR parts 3 and 49. The RIA includes a discussion of the anticipated effects of the rulemakings as follows:

1. FAR Part 3

This proposed rule streamlines FAR part 3 to improve clarity, consistency, and ease of use without altering statutory requirements or the substantive compliance environment for offerors and contractors. It removes obsolete and duplicative text (*e.g.,* references to Executive Order 11222 and sections 3.301, 3.406, and 3.907), updates internal cross references, and adopts plain language edits to enhance readability and navigability for the acquisition workforce. The rule also clarifies procedures at FAR 3.104–4 for reviewing markings on contractor bid or proposal information and source selection information.

Benefits to the Government include a more coherent framework for protecting sensitive information and applying procurement integrity provisions, reduced time spent reconciling outdated cross references, and fewer procedural errors associated with inconsistent review practices. By presenting requirements in plain language and removing redundant narrative, the rule supports faster onboarding, more consistent training, and improved day to day application of ethical and integrity standards across agencies. Benefits to industry are indirect but meaningful. Clearer, more predictable processes for markings review, faster resolution of questions tied to proprietary or source selection information, and a FAR part

that is easier to navigate, especially for small businesses and commercial providers unfamiliar with legacy constructs. Associated burdens are negligible and one time in nature (*e.g.,* familiarization and routine updates to agency guidance and training materials), as the rule does not introduce new reporting, recordkeeping, certifications, or contractor systems changes.

2. FAR Part 49

This proposed rule modernizes FAR part 49 to improve clarity, efficiency, and usability while preserving long-standing statutory rights and principles. Substantive revisions replace the mandatory audit trigger for termination settlement proposals with a permissive, risk-based approach; reduces the settlement proposal submission timeframe from one year to 90 days; revises the contractor extension request timeframe to 60 days; and shortens the inventory schedule submission timeframe from 120 days to 60 days, with extension requests due within 30 days of termination notice. The rule also removes duplicative or nonstatutory sections, clarifies default termination procedures, and reinstates standard termination case file documentation to support transparent, orderly closeout. Collectively, these changes establish clearer expectations, align oversight to risk, and streamline administration of both convenience and default terminations.

Benefits to the Government include better allocation of audit resources to higher-risk settlements, shorter termination durations, and faster contract closeout and funds reallocation. Benefits to industry include reduced administrative burden associated with automatic audits when risk does not warrant them, earlier resolution of termination actions that improves cash flow and reduces carrying costs, and more predictable documentation and interaction expectations under revised timelines. Associated burdens are minimal and primarily transitional. Contractors may need to front-load existing work earlier in the process, and agencies will update internal policies and provide targeted training to reinforce risk-informed judgment and revised timeframes. No new reporting, recordkeeping, or information collections are introduced by these changes, and substantive termination rights and settlement principles remain unchanged.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Executive Order 14192

This rule is subject to E.O. 14192, Unleashing Prosperity Through Deregulation. This proposed rule, if finalized as proposed, is anticipated to be an E.O. 14192 deregulatory action. See discussion in the ''Expected Impact of the Rule'' section of this preamble.

VII. Regulatory Flexibility Act

This proposed rule, if finalized, may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601–612. However, an Initial Regulatory Flexibility Analysis (IRFA) is as follows:

1. Reasons for the action.

Executive Order (E.O.) 14275, Restoring Common Sense to Federal Procurement, directs the elimination of excessive acquisition regulations to stop the inefficient use of American taxpayer dollars. The E.O. directs the first comprehensive end-to-end overhaul of the FAR in its 40-year history. The E.O. establishes the policy that the FAR should ''contain only provisions that are required by statute or that are otherwise necessary to support simplicity and usability, strengthen the efficacy of the procurement system, or protect economic or national security interests.'' In response to E.O. 14275, the Office of Management and Budget issued memorandum M–25–26, Overhauling the Federal Acquisition Regulation. The Memo directed the FAR Council to complete a ''revolutionary overhaul'' of the FAR. Therefore, the FAR Council is issuing twelve proposed rules that collectively will streamline the FAR in its entirety.

2. Objectives of, and legal basis for, the rule

The revolutionary FAR overhaul (RFO) rewrite represents a paradigm shift in Federal acquisition. It emphasizes streamlining, clarity, and accessibility, while ensuring that the regulation focuses only on statutory mandates and foundational procurement principles. The RFO is designed to simplify compliance for contracting professionals, improve acquisition speed and agility, and reinforce mission outcomes over process formalities.

The basis for the RFO is E.O. 14275. The authority for promulgation of the FAR is 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

3. Description of and an estimate of the number of small entities to which the rule will apply

All small entity concerns who want to contract with the Federal Government will have to familiarize themselves with the reorganized, streamlined, and revised FAR, including the content of this rulemaking. As of January 2026, there are 401,196 entities registered in the System for Award Management (SAM) that were small for at least one North American Industry Classification System (NAICS) code they had selected.

FAR Part 3:

Proposed revisions to FAR part 3 apply broadly to all Federal offerors and contractors, including small entities across all sectors. In addition to nonsubstantive revisions that reorganize and streamline regulatory text, clarify existing requirements through plain-language edits, correct internal cross-references, and remove duplicative or outdated provisions, the rule includes a substantive revision aligning the procedures for reviewing improperly marked contractor information in FAR 3.104–4(b) and 3.104–4(d) with the procedures set forth in FAR 27.404–5.

Because these changes do not impose new reporting, recordkeeping, or compliance obligations on contractors, including small entities, and do not require changes to internal systems, ethics programs, or business practices, they are not expected to result in significant additional costs. The revisions do not affect contractor pricing, competition, or participation in Federal acquisitions; however, the revisions will make the FAR easier to navigate and reduce confusion for small entities by providing clearer guidance and standardized formats. While small entities may need to update internal procedures to align with the reorganized structure, the overall effect is expected to reduce administrative burden and improve transparency. Familiarization costs are anticipated to be minimal, primarily involving time spent reviewing the new structure.

FAR Part 49:

Proposed revisions to FAR Part 49 affect contractors whose contracts are terminated for convenience or default,

including small entities prime contractors across all sectors. The rule includes substantive revisions that revise audit practices for termination settlement proposals and adjust procedural timeframes for the submission of inventory schedules and termination settlement proposals, as well as nonsubstantive revisions that streamline and clarify termination procedures across multiple subparts and clauses.

The substantive revisions replace the mandatory termination settlement proposal audit requirement with a permissive, risk-based approach that allows TCOs to determine whether audit support is appropriate based on the facts and risk of the settlement. The revisions also remove the certified cost or pricing data threshold as a trigger for audit.

In addition, the rule revises default submission timeframes for inventory schedules and termination settlement proposals and revises the timing for requesting extensions, while retaining the ability for contractors to request additional time. These changes do not alter the scope or content of termination settlement proposals, inventory schedules, or subcontract settlements, and do not introduce new documentation, reporting, or audit requirements.

The nonsubstantive revisions reorganize and streamline regulatory text, remove nonstatutory requirements, improve consistency and usability as a result of the plain-language edit, while preserving long standing statutory authorities and established termination principles. These revisions do not change contractor rights or obligations.

Because the revisions are procedural in nature, preserve existing termination rights and settlement principles, and do not expand the information required from contractors or the documentation needed to support termination settlement proposals or inventory schedules, and do not impose new compliance, reporting, or recordkeeping requirements on small entities, the negative impact of the proposed revisions on small entities is not expected to be substantial.

The revisions retain contractor flexibility through extension request provisions for submission timeframes and shift audit practices to a risk-based and discretionary framework and adjust default submission timeframes without changing the substantive requirements applicable to termination settlement proposals or inventory schedules.

While the revised submission timeframes may require contractors to prepare and submit existing information earlier in the termination process, any potential cost impacts are expected to be limited, administrative in nature, and offset by efficiencies gained through earlier engagement, reduced settlement durations, and a corresponding decrease in administrative costs once associated with prolonged termination actions. In addition, due to the infrequent occurrence of contract terminations, only a limited number of contractors will be minimally impacted at any given time. Accordingly, the revisions are not expected to result in a significant negative economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

FAR Part 52:

The changes in FAR part 52 clarify the applicability of provisions and clauses associated with updates to prescriptions in FAR parts 3 and 49. In addition to these clarifications, the rule includes plain language edits, such as improvements to readability, updates to active voice, and replacement of the term ''shall'' with ''must,'' to promote consistency across prescriptions and clauses. Any costs are negligible and limited to internal policy updates. Therefore, the changes are not expected to have a significant economic impact on a substantial number of small entities.

4. Description of projected reporting, recordkeeping, and other compliance requirements of the rule.

This proposed rule, if finalized, does not contain any new reporting, recordkeeping, or other compliance requirements.

FAR Part 3:

Revisions to FAR Part 3 do not introduce new reporting, recordkeeping, or information collection requirements for contractors, subcontractors, or offerors, including small entities. The changes are limited to organizational and editorial revisions, clarification of existing requirements through plain-language edits, correction of internal cross-references, and alignment of FAR part 3 with part 27. Contractors remain subject to the same ethical, procurement integrity, and conflict of interest obligations that existed prior to the rule, and no new certifications, disclosures, or documentation submissions are required.

The revisions do not impose new compliance obligations or require changes to contractor systems, staffing, training, or internal controls. Because the rule does not add or modify information collections, it does not result in increased paperwork burden under the Paperwork Reduction Act. The changes are intended to support clearer understanding and more consistent application of existing requirements without creating new compliance responsibilities for contractors or the Government.

FAR Part 49:

Revisions to FAR Part 49 do not establish new reporting or recordkeeping requirements related to contract terminations, including termination settlement proposals or inventory schedules. Contractors are not required to submit additional information beyond what is already required under existing termination procedures. The revisions adjust procedural timeframes for the submission of termination settlement proposals and inventory schedules, clarify existing FAR text, and promote a risk-based approach to the administration of termination proposal audits, without expanding documentation or data submission requirements.

The rule does not require contractors to modify accounting systems, recordkeeping practices, or internal termination procedures, nor does it impose new compliance steps or documentation obligations. Because the revisions do not create new or revised information collections, they do not increase paperwork burden under the Paperwork Reduction Act. The changes are limited to improving clarity, promoting efficiency, and removing nonstatutory and outdated text, and do not introduce additional compliance requirements for contractors or the Government.

FAR Part 52:

This proposed rule does not contain any new reporting, recordkeeping, or other compliance requirements under FAR part 52. The updates clarify the applicability of prescriptions and clauses to commercial acquisitions and make conforming revisions to clauses associated with FAR parts 3 and 49. These changes are editorial and organizational in nature and do not impose new compliance obligations.

5. Relevant Federal rules which may duplicate, overlap, or conflict with the rule.

The proposed rule, if finalized, would not duplicate, overlap, or conflict with other Federal rules.

6. Description of any significant alternatives to the rule which accomplish the stated objectives of applicable statutes, and which minimize any significant economic impact of the rule on small entities.

There are no significant alternatives that would minimize the impact of the rule on small entities.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the

Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. The FAR Council invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

The FAR Council will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite ''5 U.S.C. 610 (FAR Case 2026–007)'' in correspondence.

VIII. Paperwork Reduction Act

This rule includes information collections under the Paperwork Reduction Act (44 U.S.C. 3501–3521). Following are the specific collections associated with each FAR part in this rule as previously approved by OMB followed by how each collection would be affected by the proposed rule. If a FAR part is not listed below, then there are no information collections associated with the part.

Part 3

OMB Control No 9000–0018, Federal Acquisition Regulation Part 3: Improper Business Practices and Personal Conflicts of Interest—FAR sections affected: 52.203–2, 52.203–7, 52.203–13, and 52.203–16. The changes under this proposed rule, if finalized, would not affect the information collection or the paperwork burden previously approved by OMB. The collection would remain unchanged.

Part 49

OMB Control No 9000–0012, Termination Settlement Proposal Forms (SFs 1435 through 1440); FAR Section Affected: SFs 1435 through 1440. The changes under this proposed rule, if finalized, would not affect the information collection or the paperwork burden previously approved by OMB. The collection would remain unchanged.

IX. Severability

If any portion (*e.g.,* section, clause, sentence) of this rule is held to be invalid or unenforceable facially, or as applied to any entity or circumstance, it shall be severable from the remainder of this rule, and shall not affect the remainder thereof, or its application to entities not similarly situated or to other dissimilar circumstances. The various portions of this rule are independent and serve distinct purposes. Even if one aspect were rendered invalid, the other benefits of the rule would still be applicable.''

List of Subjects in 48 CFR Parts 3, 49, and 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, OFPP, DoD, GSA, and NASA propose amending 48 CFR parts 3, 49, and 52 as set forth below:

■ 1. Revise parts 3 and 49 to read as follows:

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Sec.
3.000 Scope of part.

Subpart 3.1—Safeguards

3.101 Standards of conduct.
3.101–1 General.
3.101–2 Solicitation and acceptance of gratuities by Government personnel.
3.101–3 Agency regulations.
3.102 [Reserved]
3.103 Independent pricing.
3.103–1 Solicitation provision.
3.103–2 Evaluating the certification.
3.104 Procurement integrity.
3.104–1 Definitions.
3.104–2 General.
3.104–3 Statutory and related prohibitions, restrictions, and requirements.
3.104–4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.
3.104–5 Disqualification.
3.104–6 Ethics advisory opinions regarding prohibitions on a former official's acceptance of compensation from a contractor.
3.104–7 Violations or possible violations.
3.104–8 Criminal and civil penalties, and further administrative remedies.
3.104–9 Contract clauses.

Subpart 3.2—Contractor Gratuities to Government Personnel

3.201 Applicability.
3.202 Contract clause.
3.203 Reporting suspected violations of the Gratuities clause.
3.204 Treatment of violations.

Subpart 3.3—Reports of Suspected Antitrust Violations

3.301 [Reserved]
3.302 Definitions.
3.303 Reporting suspected antitrust violations.

Subpart 3.4—Contingent Fees

3.400 Scope of subpart.
3.401 Definitions.
3.402 Statutory requirements.
3.403 Applicability.
3.404 Contract clause.
3.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

Subpart 3.5—Other Improper Business Practices

3.501 Buying-in.
3.501–1 Definition.
3.501–2 General.
3.502 Subcontractor kickbacks.
3.502–1 Definitions.
3.502–2 Subcontractor kickbacks.
3.502–3 Contract clause.
3.503 Unreasonable restrictions on subcontractor sales.
3.503–1 Policy.
3.503–2 Contract clause.

Subpart 3.6—Contracts with Government Employees or Organizations Owned or Controlled by Them

3.601 Policy.
3.602 Exceptions.
3.603 Responsibilities of the contracting officer.

Subpart 3.7—Voiding and Rescinding Contracts

3.700 Scope of subpart.
3.701 Purpose.
3.702 Definition.
3.703 Authority.
3.704 Policy.
3.705 Procedures.

Subpart 3.8—Limitations on the Payment of Funds to Influence Federal Transactions

3.800 Scope of subpart.
3.801 Definitions.
3.802 Statutory prohibition and requirement.
3.803 Exceptions.
3.804 Policy.
3.805 Exemption.
3.806 Processing suspected violations.
3.807 Civil penalties.
3.808 Solicitation provision and contract clause.

Subpart 3.9—Whistleblower Protections for Contractor Employees

3.900 Scope of subpart.
3.901 Definitions.
3.902 Classified information.
3.903 Policy.
3.904 Complaints.
3.904–1 Procedures for filing complaints.
3.904–2 Procedures for investigating complaints.
3.905 Remedies and enforcement of orders.
3.905–1 Remedies.
3.905–2 Enforcement of orders.
3.906 Contract clause.
3.907 [Reserved]
3.908 [Reserved]
3.909 Prohibition on providing funds to an entity that requires certain internal confidentiality agreements or statements.
3.909–1 Prohibition.
3.909–2 Representation by the offeror.
3.909–3 Solicitation provision and contract clause.

Subpart 3.10—Contractor Code of Business Ethics and Conduct

3.1000 Scope of subpart.
3.1001 Definitions.
3.1002 Policy.

3.1003 Requirements.
3.1004 Contract clauses.

Subpart 3.11—Preventing Personal Conflicts of Interest for Contractor Employees Performing Acquisition Functions

3.1100 Scope of subpart.
3.1101 Definitions.
3.1102 Policy.
3.1103 Procedures.
3.1104 Mitigation or waiver.
3.1105 Violations.
3.1106 Contract clause.

Authority: 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

3.000 Scope of part.

This part prescribes policies and procedures for avoiding improper business practices and personal conflicts of interest and for dealing with their apparent or actual occurrence.

Subpart 3.1—Safeguards

3.101 Standards of conduct.

3.101–1 General.

Government business must be conducted in a manner above reproach. Except as authorized by statute or regulation, business must be conducted with complete impartiality and without preferential treatment for anyone. Transactions involving public funds require the highest degree of public trust and impeccable standards of conduct. The general rule is to avoid any conflict of interest or even the appearance of a conflict of interest in Government-contractor relationships. Many Federal laws restrict Government personnel actions. Beyond these restrictions, official conduct must meet a standard where personnel would have no reluctance to fully disclose their actions to the public.

3.101–2 Solicitation and acceptance of gratuities by Government personnel.

(a) As a rule, and as required by Executive Order 12731, no Government employee may solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who—

(1) Has or is seeking to obtain Government business with the employee's agency;

(2) Conducts activities that are regulated by the employee's agency; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties.

(b) Certain limited exceptions are authorized in agency regulations.

3.101–3 Agency regulations.

(a) Agencies must prescribe *Standards of Conduct* as required by 5 CFR part 735. These agency standards contain—

(1) Agency-authorized exceptions to 3.101–2; and

(2) Disciplinary measures for persons violating the standards of conduct.

(b) Requirements for employee financial disclosure and restrictions on private employment for former Government employees are contained in Office of Personnel Management and agency regulations implementing Public Law 95–521, which amended 18 U.S.C. 207.

3.102 [Reserved]

3.103 Independent pricing.

3.103–1 Solicitation provision.

Insert the provision at 52.203–2, Certificate of Independent Price Determination, in solicitations, other than those for commercial products or commercial services, for firm-fixed-price contracts or fixed-price contracts with economic price adjustment, unless-

(a) The purchase uses simplified acquisition procedures from part 13;

(b) The solicitation only requests technical proposals under two-step sealed bidding; or

(c) The solicitation is for utility services with rates established by law or regulation.

3.103–2 Evaluating the certification.

(a) *Evaluation guidelines.*

(1) The following activities are not considered ''disclosure'' as used in paragraph (a)(2) of the Certificate of Independent Price Determination (the certificate):

(i) A firm has published price lists, rates, or tariffs for items the Government is buying.

(ii) A firm has told potential customers about upcoming new or revised price lists for items the Government is buying.

(iii) A firm has sold the same items to commercial customers at the same prices offered to the Government.

(iv) A firm participates in a reverse auction (explained in part 17).

(2) For paragraph (b)(2) of the certificate, an individual may use a blanket authorization to act as an agent for the person(s) responsible for determining the offered prices if—

(i) The proposed contract is clearly within the scope of the authorization; and

(ii) The person giving the authorization is responsible for determining the offered prices at the time the certification is made for that offer.

(3) For joint offers from multiple companies, each company's certification applies only to its own activities.

(b) *Rejecting potentially collusive offers.*

(1) If an offeror removes or modifies paragraph (a)(1), (a)(3), or (b) of the certificate, the contracting officer must reject their bid or proposal.

(2) If an offeror deleted or modified paragraph (a)(2) of the certificate—

(i) The offeror must furnish with its offer a signed explanation about how prices were disclosed;

(ii) The chief of the contracting office must review both the changed certificate and explanation;

(iii) The chief must determine in writing if the disclosure was made for the purpose or had the effect of limiting competition;

(iv) If the determination finds the disclosure was made for the purpose or had the effect of limiting competition, the bid must be rejected; and

(v) If the determination finds no competition issues, the bid or proposal may be considered for award.

(3) When rejecting offers under paragraphs (b)(1) or (b)(2), or when suspecting false certification, the contracting officer must report the situation to the Attorney General in accordance with 3.303.

(4) The determination in paragraph (2) does not prevent prosecution of criminal or civil actions involving the transactions to which the certificate relates.

3.104 Procurement integrity.

3.104–1 Definitions.

As used in this section—

Agency ethics official means the designated agency ethics official described in 5 CFR 2638.104 or other designated person, including–

(1) Deputy ethics officials described in 5 CFR 2638.104(e), to whom authority under 3.104–6 has been delegated by the designated agency ethics official; and

(2) Alternate designated agency ethics officials described in 5 CFR 2638.104(d).

Compensation means wages, salaries, honoraria, commissions, professional fees, and any other form of payment, provided directly or indirectly for services rendered. Compensation is indirectly provided if it is paid to an entity other than the individual, specifically in exchange for services provided by the individual.

Contractor bid or proposal information means any of the following information submitted to a Federal agency as part of or in connection with a bid or proposal to enter into a Federal

agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

(1) Cost or pricing data (as defined by 10 U.S.C. 3701(1) with respect to procurements subject to that section, and 41 U.S.C. 3501(a)(1), with respect to procurements subject to that section).

(2) Indirect costs and direct labor rates.

(3) Proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with applicable law or regulation.

(4) Information marked by the contractor as ''contractor bid or proposal information'' in accordance with applicable law or regulation.

(5) Information marked in accordance with 52.215–1(e).

Decision to award a subcontract or modification of subcontract means a decision to designate award to a particular source.

Federal agency procurement means the acquisition (by using competitive procedures and awarding a contract) of goods or services (including construction) from non-Federal sources by a Federal agency using appropriated funds. For broad agency announcements and small business innovation research programs, each proposal received by an agency counts as a separate procurement for purposes of 41 U.S.C. chapter 21.

In excess of $10,000,000 means—

(1) The value, or estimated value, at the time of award, of the contract, including all options;

(2) The total estimated value at the time of award of all orders under an indefinite-delivery, indefinite-quantity, or requirements contract;

(3) Any multiple award schedule contract, unless the contracting officer documents a lower estimate;

(4) The value of a delivery order, task order, or an order under a Basic Ordering Agreement;

(5) The amount paid or to be paid in settlement of a claim; or

(6) The estimated monetary value of negotiated overhead or other rates when applied to the Government portion of the applicable allocation base.

Official means—

(1) An officer, as defined in 5 U.S.C.2104;

(2) An employee, as defined in 5 U.S.C.2105;

(3) A member of the uniformed services, as defined in 5 U.S.C.2101(3); or

(4) A special Government employee, as defined in 18 U.S.C.202.

Participating personally and substantially in a Federal agency procurement means—

(1) Active and significant involvement of an official in any of the following activities directly related to that procurement:

(i) Drafting, reviewing, or approving the specification or statement of work for the procurement.

(ii) Preparing or developing the solicitation.

(iii) Evaluating bids or proposals or selecting a source.

(iv) Negotiating price or terms and conditions of the contract.

(v) Reviewing and approving the award of the contract.

(2) ''Participating personally'' means participating directly and includes the direct and active supervision of a subordinate's participation in the matter.

(3) ''Participating substantially'' means that the official's involvement is of significance to the matter. Substantial participation requires more than official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue. Participation may be substantial even though it is not determinative of the outcome of a particular matter. A finding of substantiality should be based not only on the effort devoted to a matter, but on the importance of the effort. While a series of peripheral involvements may be insubstantial, the single act of approving or participating in a critical step may be substantial. However, the review of procurement documents solely to determine compliance with regulatory, administrative, or budgetary procedures, does not constitute substantial participation in a procurement.

(4) Generally, an official will not be considered to have participated personally and substantially in a procurement solely by participating in the following activities:

(i) Agency-level boards, panels, or other advisory committees that review program milestones or evaluate and recommend alternative technologies or approaches for broad agency-level missions or objectives.

(ii) General technical, engineering, or scientific work with broad application not directly tied to a specific procurement, even if that work later becomes part of a procurement.

(iii) Clerical functions supporting a particular procurement.

(iv) For OMB Circular A–76 procurements, participation in management studies, preparation of in-house cost estimates, preparation of ''most efficient organization'' analyses, or providing data or technical support for others to develop performance standards, statements of work, or specifications.

Source selection evaluation board means any board, team, council, or other group that evaluates bids or proposals.

3.104–2 General.

(a) This section implements 41 U.S.C. chapter 21, Restrictions on Obtaining and Disclosing Certain Information. The senior procurement executive of the agency must approve any agency supplementation to 3.104. This includes specific definitions identifying individuals who occupy positions specified in 3.104–3(d)(1)(ii), and any required clauses. A law may establish a higher level of approval for that agency.

(b) Agency officials need to remember that other statutes and regulations also address similar prohibited conduct, for example—

(1) The offer or acceptance of a bribe or gratuity is prohibited by 18 U.S.C. 201 and 10 U.S.C. 4651. 5 U.S.C. 7353 and 5 CFR part 2635 prohibit accepting certain gifts;

(2) Contact with an offeror during an acquisition may constitute ''seeking employment'' (see 5 CFR part 2635 and 3.104–3(c)(2)). Government employees cannot participate personally and substantially in any matter that would affect the financial interests of a person with whom they are seeking employment, as prohibited by 18 U.S.C. 208 and 5 CFR part 2635. An employee negotiating or seeking employment with an offeror or who has an arrangement concerning future employment with an offeror must follow the disqualification requirements in 5 CFR 2635.604 and 2635.606. The prohibition in 18 U.S.C. 208 may require employee disqualification from participation in the acquisition even if their duties are not considered ''participating personally and substantially'' as defined in 3.104–1;

(3) Post-employment restrictions under 18 U.S.C. 207 and 5 CFR part 2641 prohibit certain activities by former Government employees. This includes representing a contractor before the Government regarding any contract or other particular matter involving specific parties where the former employee participated personally and substantially while employed by the Government. Additional restrictions apply to certain senior Government employees and for matters under an employee's official responsibility;

(4) Parts 14 and 15 restrict the release of procurement information and other

contractor information that must be protected under 18 U.S.C. 1905;

(5) The Privacy Act (5 U.S.C. 552a), the Trade Secrets Act (18 U.S.C. 1905), and other laws may prohibit releasing information both before and after award (see 3.104–4); and

(6) Using nonpublic information for an employee's private interest or another's benefit and engaging in financial transactions using nonpublic information are prohibited by 5 CFR 2635.703.

3.104–3 Statutory and related prohibitions, restrictions, and requirements.

(a) *Prohibition on disclosing procurement information (41 U.S.C. 2102).*

(1) A person described in paragraph (a)(2) of this subsection must not knowingly disclose contractor bid or proposal information or source selection information before a Federal agency awards the procurement contract to which the information relates. This restriction applies except when disclosure is allowed by law. (See 3.104–4(a).)

(2) Paragraph (a)(1) of this subsection applies to any person who—

(i) Is a present or former official of the United States, or a person who is acting or has acted for or on behalf of, or who is advising or has advised the United States with respect to, a Federal agency procurement; and

(ii) By virtue of that office, employment, or relationship, has or had access to contractor bid or proposal information or source selection information.

(b) *Prohibition on obtaining procurement information (41 U.S.C. 2102).* A person must not knowingly obtain contractor bid or proposal information or source selection information before a Federal agency awards the procurement contract to which the information relates. This restriction applies except when obtaining such information is allowed by law.

(c) *Actions required when an agency official contacts or is contacted by an offeror regarding non-Federal employment (41 U.S.C. 2103).*

(1) An agency official who participates personally and substantially in a Federal agency procurement for a contract over the simplified acquisition threshold must take specific actions if they contact or are contacted by an offeror in that Federal agency procurement about possible non-Federal employment for that official. The official must—

(i) Promptly report the contact in writing to the official's supervisor and to the agency ethics official; and

(ii) Either reject the possibility of non-Federal employment or disqualify himself or herself from further personal and substantial participation in that Federal agency procurement (see 3.104–5). This disqualification remains until the agency authorizes the official to resume participation in that procurement, according to the requirements of 18 U.S.C. 208 and applicable agency regulations, because—

(A) The person is no longer an offeror in that Federal agency procurement; or

(B) All discussions with the offeror regarding possible non-Federal employment have ended without an agreement or arrangement for employment.

(2) A contact is any action included as ''seeking employment'' in 5 CFR 2635.603(b). Unsolicited communications from offerors regarding possible employment also count as contacts.

(3) Agencies must retain reports of employment contacts for 2 years from the date the report was submitted.

(4) Even if conduct complies with 41 U.S.C. 2103, other criminal statutes and the Standards of Ethical Conduct for Employees of the Executive Branch may prohibit it. See 3.104–2(b)(2).

(d) *Prohibition on former official's acceptance of compensation from a contractor (41 U.S.C. 2104).*

(1) A former official of a Federal agency must not accept compensation from a contractor as an employee, officer, director, or consultant for 1 year after the former official—

(i) Served, when the contractor was selected or awarded a contract, as the procuring contracting officer, the source selection authority, a member of a source selection evaluation board, or the chief of a financial or technical evaluation team in a procurement where that contractor received a contract in excess of $10,000,000;

(ii) Served as the program manager, deputy program manager, or administrative contracting officer for a contract in excess of $10,000,000 awarded to that contractor; or

(iii) Personally made for the Federal agency a decision to—

(A) Award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order in excess of $10,000,000 to that contractor;

(B) Establish overhead or other rates for that contractor's contracts valued in excess of $10,000,000;

(C) Approve issuing a contract payment or payments in excess of $10,000,000 to that contractor; or

(D) Pay or settle a claim in excess of $10,000,000 with that contractor.

(2) The 1-year prohibition begins on the date—

(i) Of contract award for positions described in paragraph (d)(1)(i) of this subsection, or the date of contractor selection if the official was not serving in the position on the date of award;

(ii) The official last served in one of the positions described in paragraph (d)(1)(ii) of this subsection; or

(iii) The official made one of the decisions described in paragraph (d)(1)(iii) of this subsection.

(3) The prohibition in paragraph (d)(1) of this subsection does not prevent a former official from accepting compensation from any division or affiliate of a contractor that does not produce the same or similar products or services than the entity responsible for the contract referred to in paragraph (d)(1).

3.104–4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

(a) No person or entity may disclose contractor bid or proposal information or source selection information to any person other than those authorized to receive that information, in accordance with applicable agency regulations or procedures, by the agency head or contracting officer. This restriction applies except as specifically provided in this subsection.

(b) Contractor bid or proposal information and source selection information must be protected from unauthorized disclosure according to 14.303(a), 14.301(c), 14.211–3(a)(3), 15.207, applicable law, and agency regulations.

(c) Individuals who are unsure if specific information is source selection information, as defined in 2.101, should consult with agency officials. Individuals preparing material that may be source selection information as described in paragraph (10) of the ''source selection information'' definition in 2.101 must mark the cover page and each page they believe contains source selection information with this legend: ''Source Selection Information—See FAR 2.101 and 3.104.'' Although information in paragraphs (1) through (9) of the definition in 2.101 counts as source selection information whether or not marked, all reasonable efforts must be made to mark such material with the same legend.

(d) The contracting officer must notify the offeror or contractor in writing and follow the procedures in paragraphs (d)(1)-(3) of this section if the contracting officer believes proprietary information, contractor bid or proposal information, or information marked under 52.215–1(e) has been inappropriately marked.

(1) Agencies must not cancel or ignore markings unless they first provide a written request asking the offeror or contractor to submit a written justification substantiating the proprietary markings. The contracting officer must establish a reasonable response date that does not exceed 60 days.

(2) If the offeror or contractor either fails to respond or fails to provide a written justification substantiating the markings within the time afforded, the Government may cancel or ignore the markings.

(3) If the offeror or contractor provides a written justification substantiating the markings, consider the justification.

(i) Upon determining that the markings are authorized, notify the offeror or contractor in writing.

(ii) If the contracting officer determines that the markings are not authorized, obtain concurrence at one level above the contracting officer, and provide the offeror or contractor a written determination regarding the appropriateness of the markings. The determination must state that the Government will cancel or ignore the markings and that the information will no longer be subject to disclosure prohibitions, unless the offeror or contractor seeks relief through applicable remedies (*e.g.,* filing a pre-award protest or, if after award, pursuing a claim under the Disputes clause or litigation in a court of competent jurisdiction). Do not cancel or ignore the markings until final resolution of the matter through these processes.

(iii) Modify the foregoing procedures in accordance with agency regulations implementing the Freedom of Information Act (5 U.S.C. 552) as necessary to respond to a request. Regardless of any dispute over markings, proposals in their entirety remain exempt from disclosure under 41 U.S.C. 4702 (see 24.202(a)).

(e) This section does not restrict or prohibit—

(1) An offeror or contractor from disclosing its own bid or proposal information or the recipient from receiving that information. During reverse auctions, agencies may reveal offered price(s) to all offerors, but must not reveal any offeror's identity except for the awardee's identity after making an award resulting from the auction (see subpart 17.8);

(2) The disclosure or receipt of information, not otherwise protected, relating to a canceled Federal agency procurement before contract award, unless the Federal agency plans to resume the procurement;

(3) Individual meetings between a Federal agency official and an offeror or potential offeror for, or recipient of, a contract or subcontract under a Federal agency procurement, provided that unauthorized disclosure or receipt of contractor bid or proposal information or source selection information does not occur; or

(4) The Government's use of technical data in a manner consistent with the Government's rights in the data.

(f) This section does not authorize—

(1) Withholding any information from a proper request by Congress, any committee or subcommittee thereof, a Federal agency, the Comptroller General, or an Inspector General of a Federal agency, except as otherwise authorized by law or regulation. Any release containing contractor bid or proposal information or source selection information must clearly identify the information as contractor bid or proposal information or source selection information related to a Federal agency procurement. The release must also notify the recipient that disclosure of the information is restricted by 41 U.S.C. chapter 21;

(2) Withholding information from, or restricting its receipt by, the Comptroller General during a protest against the award or proposed award of a Federal agency procurement contract;

(3) Releasing information after award of a contract or cancellation of a procurement if such information is offeror or contractor bid or proposal information or source selection information that relates to another procurement; or

(4) Disclosing, soliciting, or receiving bid or proposal information or source selection information after award if such actions are prohibited by law. (See 3.104–2(b)(5) and part 24.)

3.104–5 Disqualification.

(a) *Contacts through agents or other intermediaries.* Employment contacts between an employee and an offeror conducted through agents or other intermediaries may require disqualification under 3.104–3(c)(1). These contacts may also require disqualification under other statutes and regulations. (See 3.104–2(b)(2).)

(b) *Disqualification notice.* An agency official who must disqualify himself or herself under 3.104–3(c)(1)(ii) must submit the contact report required by 3.104–3(c)(1). The official must also promptly submit written notice of disqualification from further participation in the procurement to the contracting officer, the source selection authority (if different from the contracting officer), and the agency official's immediate supervisor. At a minimum, the notice must—

(1) Identify the procurement;

(2) Describe the nature of the agency official's participation in the procurement and specify the approximate dates or time period of participation; and

(3) Identify the offeror and describe its interest in the procurement.

(c) *Resumption of participation in a procurement.*

(1) The official must remain disqualified until the agency, at its sole and exclusive discretion, authorizes the official to resume participation in the procurement according to 3.104–3(c)(1)(ii).

(2) After the conditions of 3.104–3(c)(1)(ii)(A) or (B) have been met, the head of the contracting activity (HCA), after consultation with the agency ethics official, may authorize the disqualified official to resume participation in the procurement, or may determine that an additional disqualification period is necessary to protect the procurement process integrity. When determining the disqualification period, the HCA must consider any factors that create an appearance that the disqualified official acted without complete impartiality. The HCA should document the reinstatement decision in writing.

(3) Government officers or employees must also comply with 18 U.S.C. 208 and 5 CFR part 2635 regarding resumed participation in procurement matters. A government officer or employee may not resume participating in a procurement matter affecting the financial interest of someone with whom they are seeking employment, unless the individual receives—

(i) A waiver pursuant to 18 U.S.C. 208(b)(1) or (b)(3); or

(ii) An authorization according to the requirements of subpart F of 5 CFR part 2635.

3.104–6 Ethics advisory opinions regarding prohibitions on a former official's acceptance of compensation from a contractor.

(a) An official or former official of a Federal agency may request advice from the appropriate agency ethics official before accepting compensation from a contractor. This applies when the individual does not know whether 41

U.S.C. 2104 (see 3.104–3(d)) prevents them from accepting such compensation.

(b) The request for an advisory opinion must be in writing, include all relevant information reasonably available to the official or former official, and be dated and signed. The request must include information about the—

(1) Procurement(s), or decision(s) on matters under 3.104–3(d)(1)(iii), involving the particular contractor. This includes contract or solicitation numbers, dates of solicitation or award, a description of the supplies or services procured or to be procured, and contract amount;

(2) Individual's participation in the procurement or decision, including the dates or time periods of that participation, and the nature of the individual's duties, responsibilities, or actions; and

(3) Contractor, including a description of the products or services produced by the division or affiliate of the contractor from whom the individual proposes to accept compensation.

(c) The agency ethics official should issue an opinion within 30 days after receiving a complete request, or as soon as practicable after that. The opinion should address whether the proposed conduct would violate 41 U.S.C. 2104.

(d)(1) If the request does not include complete information, the agency ethics official may ask the requester to provide more information. The ethics official may also request information from other persons, including the source selection authority, the contracting officer, or the requester's immediate supervisor.

(2) When issuing an opinion, the agency ethics official may rely on the accuracy of information provided by the requester or other agency sources. This applies unless the official has reason to believe the information is fraudulent, misleading, or otherwise incorrect.

(3) If the requester receives a written opinion from the agency ethics official stating they may accept compensation from a particular contractor and accepts such compensation in good faith reliance on that opinion, neither the requester nor the contractor will be found to have knowingly violated 41 U.S.C. 2104. However, if the requester or contractor has actual knowledge or reason to believe the opinion is based on fraudulent, misleading, or otherwise incorrect information, their reliance on the opinion will not be considered good faith.

3.104–7 Violations or possible violations.

(a) A contracting officer who receives information about a violation or possible violation of procurement integrity laws (41 U.S.C. 2102, 2103, or 2104) must determine if this affects the pending award or contractor selection.

(1) If the contracting officer determines there is no impact on the procurement, the contracting officer must forward the information about the violation, including documentation supporting the ''no impact'' determination, and send these materials to the individual designated per agency procedures.

(i) If that individual agrees with the ''no impact'' assessment, the contracting officer may continue with the procurement.

(ii) If that individual disagrees, that person must promptly forward all information to the HCA and advise the contracting officer to withhold award.

(2) If the contracting officer determines the violation does impact the procurement, the contracting officer must promptly forward all information to the HCA.

(b) The HCA must review all available information and, following agency procedures, take appropriate action, such as—

(1) Advise the contracting officer to continue with the procurement;

(2) Begin an investigation;

(3) Refer the information disclosed to appropriate criminal investigative agencies;

(4) Conclude that a violation occurred; or

(5) Recommend that the agency head determine that the contractor, or someone acting for the contractor, has engaged in conduct constituting an offense punishable under 41 U.S.C. 2105, for the purpose of voiding or rescinding the contract.

(c) Before concluding that an offeror, contractor, or person has violated 41 U.S.C. chapter 21, the HCA may request information from appropriate parties regarding the violation or possible violation.

(d) If the HCA concludes that 41 U.S.C. chapter 21 has been violated, the HCA may direct the contracting officer to—

(1) If a contract has not been awarded—

(i) Cancel the procurement;

(ii) Disqualify an offeror; or

(iii) Take other appropriate actions to protect Government interests.

(2) If a contract has been awarded—

(i) Apply appropriate contractual remedies, including profit recapture under the clause at 52.203–10 (Price or Fee Adjustment for Illegal or Improper Activity), or, if the contract has been rescinded, recovery of the amount expended under the contract.

(ii) Void or rescind the contract when:

(A) The contractor or someone acting for the contractor has been convicted for an offense where the conduct constitutes a violation of 41 U.S.C. 2102 for the purpose of either—

(*1*) Exchanging the information for anything of value; or

(*2*) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

(B) The agency head has determined, based upon a preponderance of the evidence, that the contractor or someone acting for the contractor has engaged in conduct constituting an offense punishable under 41 U.S.C. 2105(a); or

(iii) Take any other appropriate actions in the best interests of the Government.

(3) Refer the matter to the agency suspending and debarring official.

(e) The HCA should recommend or direct an administrative or contractual remedy that matches the severity and effect of the violation.

(f) If the HCA determines that urgent and compelling circumstances justify an award, or award is otherwise in the interests of the Government, the HCA, in accordance with agency procedures, may authorize the contracting officer to award the contract or execute the contract modification after notifying the agency head.

(g) The HCA may delegate authority under this subsection to an individual at least one organizational level above the contracting officer and of General Officer, Flag, Senior Executive Service, or equivalent rank.

3.104–8 Criminal and civil penalties, and further administrative remedies.

Criminal penalties, civil penalties, and administrative remedies may apply to conduct that violates procurement integrity laws in 41 U.S.C. chapter 21 (see 3.104–3). For a special rule about bid protests see 41 U.S.C. 2106. For administrative remedies related to contracts, see 3.104–7.

(a) An official who knowingly fails to follow the requirements of 3.104–3 is subject to penalties and administrative action described in 41 U.S.C. 2105.

(b) An offeror who engages in employment discussion with an official subject to the restrictions of part 3, knowing that the official has not complied with part 3, is subject to the criminal, civil, or administrative penalties set forth in 41 U.S.C. 2105.

(c) An official who refuses to terminate employment discussions (see 3.104–5) may be subject to agency administrative actions under 5 CFR 2635.604(d) if the official's disqualification from participation in a

particular procurement interferes substantially with the individual's ability to perform assigned duties.

3.104–9 Contract clauses.

Insert the following clauses in solicitations and contracts, other than those for commercial products or commercial services, if the acquisition value exceeds the simplified acquisition threshold:

(a) 52.203–8, Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity; and

(b) 52.203–10, Price or Fee Adjustment for Illegal or Improper Activity.

Subpart 3.2—Contractor Gratuities to Government Personnel

3.201 Applicability.

This subpart applies to all executive agencies, except that coverage concerning exemplary damages applies only to the Department of Defense (10 U.S.C. 4651).

3.202 Contract clause.

Insert the clause at 52.203–3, Gratuities, in solicitations and contracts, including those for commercial products or commercial services, if the acquisition value exceeds the simplified acquisition threshold, except those—

(a) For personal services; or

(b) Between military departments or defense agencies and foreign governments that do not obligate any funds appropriated to the Department of Defense.

3.203 Reporting suspected violations of the Gratuities clause.

Agency personnel must report suspected violations of the Gratuities clause to the contracting officer or other designated official in accordance with agency procedures. The agency reporting procedures must be published as an implementation of this section and must clearly specify—

(a) What to report and how to report it; and

(b) The channels through which reports must pass, including the function and authority of each official designated to review them.

3.204 Treatment of violations.

(a) Before taking action against a contractor, the agency head or designee must determine, after notice and hearing under agency procedures, whether the contractor, its agent, or representative, under a contract containing the Gratuities clause:

(1) Offered or gave a gratuity (such as entertainment or a gift) to a Government officer, official, or employee; and

(2) Intended to use this gratuity to obtain a contract or favorable treatment under a contract (this intent typically must be inferred from circumstances).

(b) Agency procedures must give the contractor an opportunity to appear with counsel, submit documentary evidence, present witnesses, and confront any person the agency presents. The procedures should be as informal as practicable, while maintaining principles of fundamental fairness.

(c) When the agency head or designee determines that a violation has occurred, the Government may—

(1) Terminate the contractor's right to proceed;

(2) Initiate debarment or suspension measures described in part 9; and

(3) Assess exemplary damages, if the contract uses money appropriated to the Department of Defense.

Subpart 3.3—Reports of Suspected Antitrust Violations

3.301 [Reserved]

3.302 Definitions.

As used in this subpart—

Identical bids means bids for the same line item that are determined to be identical as to unit price or total line item amount, with or without the application of evaluation factors (*e.g.,* discount or transportation cost).

3.303 Reporting suspected antitrust violations.

(a) Agencies are required by 41 U.S.C. 3707 and 10 U.S.C. 3307 to report to the Attorney General any bids or proposals that evidence a violation of the antitrust laws. These reports are in addition to those required by part 9.

(b) The antitrust laws are intended to ensure that markets operate competitively. Any agreement or mutual understanding among competing firms that restrains the natural operation of market forces is suspect. Paragraph (c) of this section identifies behavior patterns that are often associated with antitrust violations. Activities meeting the descriptions in paragraph (c) are not necessarily improper, but they are sufficiently questionable to warrant notifying the appropriate authorities, in accordance with agency procedures.

(c) Practices or events that may show violations of antitrust laws include—

(1) The existence of an *industry price list* or *price agreement* to which contractors refer in formulating their offers;

(2) A sudden change from competitive bidding to identical bidding;

(3) Simultaneous price increases or follow-the-leader pricing;

(4) Rotation of bids or proposals where each competitor takes turns being the low bidder, or where certain competitors bid low only on some sizes of contracts and high on other sizes;

(5) Division of the market, so that certain competitors bid low only for contracts awarded by certain agencies, or for contracts in certain geographical areas, or on certain products, and bid high on all other jobs;

(6) Establishment by competitors of a collusive price estimating system;

(7) The filing of a joint bid by two or more competitors when at least one of the competitors has sufficient technical capability and productive capacity for contract performance;

(8) Any incidents suggesting direct collusion among competitors, such as the appearance of identical calculation or spelling errors in two or more competitive offers or the submission by one firm of offers for other firms; and

(9) Statements by current employees, former employees, or competitors that an agreement to restrain trade exists.

(d) Contracting officers must report identical bids when the agency has reason to believe the bids resulted from collusion.

(e) For offers from foreign contractors on contracts to be performed outside the United States and its outlying areas, contracting officers may refer suspected collusive offers to the relevant foreign government authorities for appropriate action.

(f) Agency reports must be addressed to the Attorney General, U.S. Department of Justice, Washington, DC 20530, Attention: Assistant Attorney General, Antitrust Division, and must include—

(1) A brief statement describing the suspected practice and the reason for the suspicion; and

(2) The name, address, and telephone number of an individual in the agency who can be contacted for further information.

Subpart 3.4—Contingent Fees

3.400 Scope of subpart.

This subpart prescribes policies and procedures that restrict contingent fee arrangements for soliciting or obtaining Government contracts to those permitted by 10 U.S.C. 3321(b)(1) and 41 U.S.C. 3901.

3.401 Definitions.

As used in this subpart—

Bona fide agency, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert

improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

Bona fide employee, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

Contingent fee, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

Improper influence, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

3.402 Statutory requirements.

Contractors' arrangements to pay contingent fees for soliciting or obtaining Government contracts have long been considered contrary to public policy because such arrangements may lead to attempted or actual improper influence. In 10 U.S.C. 3321(b) and 41 U.S.C. 3901, Congress affirmed this public policy but permitted certain exceptions. These statutes—

(a) Require every negotiated contract to include a warranty by the contractor against contingent fees;

(b) Permit, as an exception to the warranty, contingent fee arrangements between contractors and bona fide employees or bona fide agencies; and

(c) Provide that if a contractor breaches or violates this warranty, the Government may annul the contract without liability or deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

3.403 Applicability.

This subpart applies to all contracts. Statutory requirements for negotiated contracts are, as a matter of policy, extended to sealed bid contracts.

3.404 Contract clause.

Insert the clause at 52.203–5, Covenant Against Contingent Fees, in solicitations and contracts, other than those for commercial products or commercial services, if the acquisition value exceeds the simplified acquisition threshold.

3.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

(a) Government personnel who suspect or have evidence of any of the following must report the matter promptly to the contracting officer or appropriate higher authority according to agency procedures:

(1) Attempted or actual exercise of improper influence;

(2) Misrepresentation of a contingent fee arrangement; or

(3) Other violations of the Covenant Against Contingent Fees.

(b) When specific evidence or other reasonable basis exists to suspect one or more violations described in paragraph (a) of this section, the chief of the contracting office must review the facts and, if appropriate, take or direct one or more of the following actions:

(1) If before award, reject the bid or proposal.

(2) If after award, enforce the Government's right to annul the contract or to recover the fee.

(3) Initiate suspension or debarment action under part 9.

(4) Refer suspected fraudulent or criminal matters to the Department of Justice, as prescribed in agency regulations.

Subpart 3.5—Other Improper Business Practices

3.501 Buying-in.

3.501–1 Definition.

Buying-in, as used in this section, means submitting an offer below anticipated costs, expecting to—

(1) Increase the contract amount after award (*e.g.,* through unnecessary or excessively priced change orders); or

(2) Receive follow-on contracts at artificially high prices to recover losses incurred on the buy-in contract.

3.501–2 General.

(a) Buying-in may decrease competition or result in poor contract performance. The contracting officer must take appropriate action to ensure buying-in losses are not recovered by the contractor through the pricing of—

(1) Change orders; or

(2) Follow-on contracts subject to cost analysis.

(b) The Government should minimize the opportunity for buying-in by seeking a price commitment covering as much of the entire program concerned as is practical by using—

(1) Multiyear contracting, with a requirement in the solicitation that a price be submitted only for the total multiyear quantity; or

(2) Priced options for additional quantities that, together with the firm contract quantity, equal the program requirements (see part 17).

(c) Other safeguards are available to the contracting officer to preclude recovery of buying-in losses (*e.g.,* amortization of nonrecurring costs (see 15.408, Table 15–2, paragraph A., column (2) under ''Formats for Submission of Line Item Summaries'') and treatment of unreasonable price quotations (see part 15).

3.502 Subcontractor kickbacks.

3.502–1 Definitions.

As used in this section—

Kickback means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

Person means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

Prime contract means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

Prime Contractor means a person who has entered into a prime contract with the United States.

Prime Contractor employee, as used in this section, means any officer, partner, employee, or agent of a prime contractor.

Subcontract means a contract or contractual action entered into by a prime contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

Subcontractor—

(1) Means any person, other than the prime contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract; and

(2) Includes any person who offers to furnish or furnishes general supplies to the prime contractor or a higher tier subcontractor.

3.502–2 Subcontractor kickbacks.

The Anti-Kickback Act of 1986 (now codified at 41 U.S.C. chapter 87, Kickbacks,) was passed to deter subcontractors from making payments and contractors from accepting payments for the purpose of improperly

obtaining or rewarding favorable treatment in connection with a prime contract or a subcontract relating to a prime contract. The Kickbacks statute—

(a) Prohibits any person from—

(1) Providing, attempting to provide, or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickbacks; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a subcontractor to a prime contractor or a higher tier subcontractor or in the contract price charged by a prime contractor to the United States.

(b) Imposes criminal penalties on any person who knowingly and willfully engages in the prohibited conduct addressed in paragraph (a) of this section.

(c) Provides for the recovery of civil penalties by the United States from any person who knowingly engages in such prohibited conduct and from any person whose employee, subcontractor, or subcontractor employee provides, accepts, or charges a kickback.

(d) Provides that—

(1) The contracting officer may offset the amount of a kickback against monies owed by the United States to the prime contractor under the prime contract to which such kickback relates;

(2) The contracting officer may direct a prime contractor to withhold from any sums owed to a subcontractor under a subcontract of the prime contract the amount of any kickback which was or may be offset against the prime contractor under paragraph (d)(1) of this section; and

(3) An offset under paragraph (d)(1) or a direction under paragraph (d)(2) of this section is a claim by the Government for the purposes of 41 U.S.C. chapter 71, Contract Disputes.

(e) Authorizes contracting officers to order that sums withheld under paragraph (d)(2) of this section be paid to the contracting agency, or if the sum has already been offset against the prime contractor, that it be retained by the prime contractor.

(f) Requires the prime contractor to notify the contracting officer when the withholding under paragraph (d)(2) of this section has been accomplished unless the amount withheld has been paid to the Government.

(g) Requires a prime contractor or subcontractor to report in writing to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Attorney General any possible violation of the Kickbacks statute when the prime contractor or subcontractor has reasonable grounds to believe such violation may have occurred.

(h) Provides that, for the purpose of determining whether there has been a violation of the Kickbacks statute on any prime contract, the Government Accountability Office and the inspector general of the contracting agency, or a representative of such contracting agency designated by the head of such agency if the agency does not have an inspector general, must have access to and may inspect the facilities and audit the books and records of any prime contractor or subcontractor under a prime contract awarded by the agency.

(i) Requires each contracting agency to include in each prime contract, other than for commercial products or commercial services, exceeding $200,000, a requirement that the prime contractor must—

(1) Have in place and follow reasonable procedures designed to prevent and detect violations of the Kickbacks statute in its own operations and direct business relationships (*e.g.,* company ethics rules prohibiting kickbacks by employees, agents, or subcontractors; education programs for new employees and subcontractors, explaining policies about kickbacks, related company procedures and the consequences of detection; procurement procedures to minimize the opportunity for kickbacks; audit procedures designed to detect kickbacks; periodic surveys of subcontractors to elicit information about kickbacks; procedures to report kickbacks to law enforcement officials; annual declarations by employees of gifts or gratuities received from subcontractors; annual employee declarations that they have violated no company ethics rules; personnel practices that document unethical or illegal behavior and make such information available to prospective employers); and

(2) Cooperate fully with any Federal agency investigating a possible violation of the Kickbacks statute.

(j) Notwithstanding paragraph (i) of this section, a prime contractor must cooperate fully with any Federal Government agency investigating a violation of 41 U.S.C. 8702 (see 41 U.S.C. 8703(b)).

3.502–3 Contract clause.

Insert the clause at 52.203–7, Anti-Kickback Procedures, in solicitations and contracts, other than those for commercial products or commercial services, if the acquisition value exceeds $200,000 (see part 12).

3.503 Unreasonable restrictions on subcontractor sales.

3.503–1 Policy.

10 U.S.C. 4655 and 41 U.S.C. 4704 require that subcontractors not be unreasonably precluded from making direct sales to the Government of any supplies or services made or furnished under a contract. However, this does not preclude contractors from asserting rights that are otherwise authorized by law or regulation.

3.503–2 Contract clause.

Insert the clause at 52.203–6, Restrictions on Subcontractor Sales to the Government, in solicitations and contracts including those for commercial products or commercial services if the acquisition value exceeds the simplified acquisition threshold. Use the clause with its Alternate I for acquisitions for other than commercial products or commercial services.

Subpart 3.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

3.601 Policy.

(a) Except as specified in 3.602, a contracting officer must not knowingly award a contract to a Government employee or to a business concern or other organization owned or substantially owned or controlled by one or more Government employees. This policy is intended to avoid any conflict of interest that might arise between the employees' interests and their Government duties, and to avoid the appearance of favoritism or preferential treatment by the Government toward its employees.

(b) For purposes of this subpart, special Government employees (as defined in 18 U.S.C. 202) performing services as experts, advisors, or consultants, or as members of advisory committees, are not considered Government employees unless—

(1) The contract arises directly out of the individual's activity as a special Government employee;

(2) In the individual's capacity as a special Government employee, the individual is in a position to influence the award of the contract; or

(3) Another conflict of interest is determined to exist.

3.602 Exceptions.

The agency head, or a designee not below the level of the head of the contracting activity, may authorize an exception to the policy in 3.601 only if there is a compelling reason to do so,

such as when the Government's needs cannot reasonably be otherwise met.

3.603 Responsibilities of the contracting officer.

(a) Before awarding a contract, the contracting officer must obtain an authorization under 3.602 if—

(1) The contracting officer knows, or has reason to believe, that a prospective contractor is one to which award is otherwise prohibited under 3.601; and

(2) There is a most compelling reason to make an award to that prospective contractor.

(b) The contracting officer must comply with the requirements and guidance of the conflicts of interest subpart in part 9 before awarding a contract to an organization owned or substantially owned or controlled by Government employees.

Subpart 3.7—Voiding and Rescinding Contracts

3.700 Scope of subpart.

This subpart prescribes Governmentwide policies and procedures for exercising discretionary authority to declare void and rescind contracts.

3.701 Purpose.

This subpart provides—

(a) An administrative remedy with respect to contracts in relation to which there has been—

(1) A final conviction for bribery, conflict of interest, disclosure or receipt of contractor bid or proposal information or source selection information in exchange for a thing of value or to give anyone a competitive advantage in the award of a Federal agency procurement contract, or similar misconduct; or

(2) An agency head determination that contractor bid or proposal information or source selection information has been disclosed or received in exchange for a thing of value, or for the purpose of obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; and

(b) A method to deter similar misconduct in the future by those who are involved in the award, performance, and administration of Government contracts.

3.702 Definition.

Final conviction means a conviction, whether entered on a verdict or plea, including a plea of nolo contendere, for which sentence has been imposed.

3.703 Authority.

(a) 18 U.S.C. 218 (*the Act*), gives the President, or the heads of executive agencies acting under regulations prescribed by the President, the power to declare void and rescind contracts and other transactions listed in the Act. This applies when there has been a final conviction for bribery, conflict of interest, or any other violation of Chapter 11 of Title 18 of the United States Code (18 U.S.C. 201–224). Executive Order 12448, November 4, 1983, delegates the President's authority under the Act to the heads of the executive agencies and military departments.

(b) 41 U.S.C. 2105(c) requires Federal agencies, upon receiving information that a contractor or person has violated 41 U.S.C. 2102, to consider rescinding a contract when—

(1) The contractor or someone acting for the contractor has been convicted of an offense punishable under 41 U.S.C. 2105(a); or

(2) The agency head, or designee, has determined, based on a preponderance of the evidence, that the contractor or someone acting for the contractor has engaged in conduct constituting such an offense.

3.704 Policy.

(a) In cases with a final conviction for any violation of 18 U.S.C. 201–224 involving or relating to agency—awarded contracts, the agency head or designee must consider the available facts. If appropriate, they must declare contracts void and rescind them, and recover the amounts spent and property transferred by the agency according to the policies and procedures in this subpart.

(b) A final conviction under 18 U.S.C. 201–224 relating to a contract may also indicate the party is not presently responsible. The agency should consider starting debarment proceedings according to part 9, if debarment has not already begun or is not in effect when the final conviction occurs.

(c) If there is a final conviction for an offense punishable under 41 U.S.C. 2105, or if the agency head or designee has determined, based on a preponderance of the evidence, that the contractor or someone acting for the contractor has engaged in such conduct, then the head of the contracting activity must consider, in addition to any other penalty prescribed by law or regulation—

(1) Declaring contracts void and rescinding them, as appropriate, and recovering the amounts spent under the contracts by using the procedures at 3.705 (see 3.104–7); and

(2) Recommending the initiation of suspension or debarment proceedings according to part 9.

3.705 Procedures.

(a) *Reporting.* The facts concerning any final conviction for any violation of 18 U.S.C. 201–224 involving or relating to agency contracts must be reported promptly to the agency head or designee for consideration. The agency head or designee must promptly notify the Civil Division, Department of Justice, that an action is being considered under this subpart.

(b) *Decision.* Following an assessment of the facts, the agency head or designee may declare void and rescind contracts with respect to which a final conviction has been entered, and recover the amounts expended and the property transferred by the agency under the terms of the contracts involved.

(c) *Decision-making process.* Agency procedures governing the voiding and rescinding decision-making process must be as informal as is practicable, consistent with the principles of fundamental fairness. At a minimum, agencies must provide the following:

(1) A notice of the proposed action to declare void and rescind the contract must be made in writing and sent by certified mail, return receipt requested by certified mail, return receipt requested, or by any other method that provides evidence of receipt.

(2) A 30-calendar day period after receipt of the notice, for the contractor to submit pertinent information before any final decision is made.

(3) Upon request made within the period for submission of pertinent information, an opportunity must be afforded for a hearing at which witnesses may be presented, and any witness the agency presents may be confronted. However, no inquiry may be made regarding the validity of a conviction.

(4) If the agency head or designee decides to declare void and rescind the contracts involved, that official must issue a written decision which—

(i) States that determination;

(ii) Reflects consideration of the fair value of any tangible benefits received and retained by the agency; and

(iii) States the amount due, and the property to be returned, to the agency.

(d) Notice of proposed action. The notice of the proposed action, at a minimum must—

(1) Advise that consideration is being given to declaring void and rescinding contracts awarded by the agency, and recovering the amounts expended and property transferred therefor, under the provisions of 18 U.S.C. 218;

(2) Specifically identify the contracts affected by the action;

(3) Specifically identify the offense or final conviction on which the action is based;

(4) State the amounts expended and property transferred under each of the contracts involved, and the money and the property demanded to be returned;

(5) Identify any tangible benefits received and retained by the agency under the contract, and the value of those benefits, as calculated by the agency;

(6) Advise that pertinent information may be submitted within 30 calendar days after receipt of the notice, and that, if requested within that time, a hearing must be held at which witnesses may be presented and any witness the agency presents may be confronted; and

(7) Advise that action must be taken only after the agency head or designee issues a final written decision on the proposed action.

(e) *Final agency decision.* The agency head or designee must base the final decision on all available information, and any relevant information submitted in writing or presented during a hearing. If the agency decision declares void and rescinds the contract, the final decision must specify the amounts due and property to be returned to the agency and reflect consideration of the fair value of any tangible benefits received and retained by the agency. Notice of the decision must be sent promptly by certified mail, return receipt requested. When contracts are rescinded under the Act's authority and the agency head demands recovery of amounts expended and property transferred, this is not considered a claim under 41 U.S.C. chapter 71, Contract Disputes or part 33. Therefore, the procedures required by the statute and the FAR for the issuance of a final contracting officer decision are not applicable to final agency decisions under this subpart and must not be followed.

Subpart 3.8—Limitations on the Payment of Funds To Influence Federal Transactions

3.800 Scope of subpart.

This subpart prescribes policies and procedures implementing 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.''

3.801 Definitions.

As used in this subpart—

Agency means executive agency as defined in 2.101.

Covered Federal action means any of the following actions:

(1) Awarding any Federal contract.

(2) Making any Federal grant.

(3) Making any Federal loan.

(4) Entering into any cooperative agreement.

(5) Extending, continuing, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.

Indian tribe and ''tribal organization'' have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) and include Alaskan Natives.

Influencing or attempting to influence means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

Local government means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

Officer or employee of an agency includes the following individuals who are employed by an agency:

(1) An individual who is appointed to a position in the Government under Title 5, United States Code, including a position under a temporary appointment.

(2) A member of the uniformed services, as defined in subsection 101(3), Title 37, United States Code.

(3) A special Government employee, as defined in section 202, Title 18, United States Code.

(4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, appendix 2.

Person means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph 3.802(a) and are permitted by other Federal law.

Reasonable compensation means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

Reasonable payment means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

Recipient includes the contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph 3.802(a) and are permitted by other Federal law.

Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

State means a State of the United States, the District of Columbia, an outlying area of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

3.802 Statutory prohibition and requirement.

(a) 31 U.S.C. 1352 prohibits recipients of Federal contracts, grants, loans, or cooperative agreements from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress regarding covered Federal actions.

(1) For purposes of this subpart the term ''appropriated funds'' does not include profit or fee from a covered Federal action.

(2) If a person shows they have enough funds, other than Federal

appropriated funds, the Government must assume these other funds were used for any influencing activities that would be unallowable if paid for with Federal appropriated funds.

(b) 31 U.S.C. 1352 also requires offerors to submit a declaration that includes both certification and disclosure, with regular updates of the disclosure after contract award. These requirements appear in the provision at 52.203–11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and the clause at 52.203–12, Limitation on Payments to Influence Certain Federal Transactions.

3.803 Exceptions.

(a) The prohibition of paragraph 3.802(a) does not apply under the following conditions:

(1) *Agency and legislative liaison by own employees.*

(i) Payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action is permitted when the payment is for agency and legislative liaison activities not directly related to a covered Federal action. Providing any information specifically requested by an agency or Congress is permitted at any time.

(ii) Participating with an agency in discussions unrelated to a specific solicitation for any covered Federal action, is permitted when discussions concern—

(A) The qualities and characteristics (including demonstrations) of the person's products or services, sales terms, and service capabilities; or

(B) How the person's products or services might be adapted for agency use.

(iii) Providing information not specifically requested but necessary for an agency to make an informed decision about starting a covered Federal action is permitted before formal solicitation.

(iv) Participating in technical discussions about preparing an unsolicited proposal before its official submission is permitted.

(v) Making capability presentations before formal solicitation when seeking an award under the Small Business Act, as amended by Public Law 95–507 and later amendments, is permitted.

(2) *Professional and technical services.*

(i) Reasonable compensation to an officer or employee of a person requesting or receiving a covered Federal action is permitted when payment is for professional or technical services directly related to preparing, submitting, or negotiating bids, proposals, or applications for that Federal action, or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Reasonable payment to persons who are not officers or employees of a person requesting or receiving a covered Federal action is permitted when payment is for professional or technical services directly related to preparing, submitting, or negotiating bids, proposals, or applications for that Federal action, or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal Action. These persons may include consultants and trade associations.

(iii) In this section, ''professional and technical services'' means advice and analysis directly applying professional or technical expertise. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional or a technical person are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another, are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(iv) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal action includes those in laws, regulations, and the actual award documents.

(b) Only the communications and services specifically authorized in paragraph (a) are permitted.

(c) The disclosure requirements in paragraph 3.802(b) do not apply to reasonable compensation paid to regularly employed officers of a person.

3.804 Policy.

The contracting officer must obtain certifications and disclosures as required by the provision at 52.203–11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, prior to the award of any contract exceeding $200,000.

3.805 Exemption.

The Secretary of Defense may exempt, on a case-by-case basis, a covered Federal action from the prohibitions of this subpart whenever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary must transmit a copy of the exemption to Congress immediately after making the determination.

3.806 Processing suspected violations.

The contracting officer must report suspected violations of the requirements of 31 U.S.C. 1352 in accordance with agency procedures.

3.807 Civil penalties.

Agencies must impose and collect civil penalties according to the Program Fraud and Civil Remedies Act, 31 U.S.C. 3803 (except subsection (c)), 3804–3808, and 3812. These penalties apply when the Act's provisions do not conflict with the requirements of this subpart.

3.808 Solicitation provision and contract clause.

(a) Insert the provision at 52.203–11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, in solicitations, including those for commercial products or commercial services, if the acquisition value exceeds $200,000.

(b) Insert the clause at 52.203–12, Limitation on Payments to Influence Certain Federal Transactions, in solicitations and contracts, including those for commercial products or commercial services, if the acquisition value exceeds $200,000.

Subpart 3.9—Whistleblower Protections for Contractor Employees

3.900 Scope of subpart.

This subpart implements various statutory whistleblower programs. This subpart does not implement 10 U.S.C. 4701, which is applicable only to DoD, NASA, and the Coast Guard.

(a) 41 U.S.C. 4712 is implemented in 3.900 through 3.906. These sections do not apply to—

(1) DoD, NASA, and the Coast Guard; or

(2) Any element of the intelligence community, as defined in section 3(4) of

the National Security Act of 1947 (50 U.S.C. 3003(4)). Sections 3.900 through 3.906 do not apply to any disclosure made by an employee of a contractor or subcontractor of an element of the intelligence community if such disclosure—

(i) Relates to an activity of an element of the intelligence community; or

(ii) Was discovered during contract or subcontract services provided to an element of the intelligence community.

(b) Section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions), is implemented in 3.909, which is applicable to all agencies.

3.901 Definitions.

As used in this subpart—

Abuse of authority means an arbitrary and capricious exercise of authority that is inconsistent with the mission of the executive agency concerned or the successful performance of a contract of such agency.

Authorized official of the Department of Justice means any person responsible for the investigation, enforcement, or prosecution of any law or regulation.

Inspector General means an Inspector General appointed under chapter 4 of title 5 of the United States Code and any Inspector General that receives funding from, or has oversight over contracts awarded for, or on behalf of, the executive agency concerned.

Internal confidentiality agreement or statement means a confidentiality agreement or any other written statement that the contractor requires any of its employees or subcontractors to sign regarding nondisclosure of contractor information, except that it does not include confidentiality agreements arising out of civil litigation or confidentiality agreements that contractor employees or subcontractors sign at the behest of a Federal agency.

Subcontract means any contract as defined in subpart 2.1 entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

Subcontractor means any supplier, distributor, vendor, or firm (including a consultant) that furnishes supplies or services to or for a prime contractor or another subcontractor.

3.902 Classified information.

41 U.S.C. 4712 does not provide any right to disclose classified information not otherwise provided by law.

3.903 Policy.

(a)(1) Contractors and subcontractors are prohibited from discharging, demoting, or otherwise discriminating against an employee as a reprisal for disclosing, to any of the entities listed at paragraph (b) of this section, information that the employee reasonably believes is—

(i) Evidence of gross mismanagement of a Federal contract;

(ii) A gross waste of Federal funds;

(iii) An abuse of authority relating to a Federal contract;

(iv) A substantial and specific danger to public health or safety; or

(v) A violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract).

(2) A reprisal is prohibited even when requested by an executive branch official, unless the request takes the form of a non-discretionary directive and is within the authority of the executive branch official making the request.

(b) Disclosure may be made to the following entities:

(1) A Member of Congress or a representative of a committee of Congress.

(2) An Inspector General.

(3) The Government Accountability Office.

(4) A Federal employee responsible for contract oversight or management at the relevant agency.

(5) An authorized official of the Department of Justice or other law enforcement agency.

(6) A court or grand jury.

(7) A management official or other employee of the contractor or subcontractor who has the responsibility to investigate, discover, or address misconduct.

(c) An employee who initiates or provides evidence of contractor or subcontractor misconduct in any judicial or administrative proceeding relating to waste, fraud, or abuse on a Federal contract must be deemed to have made a disclosure.

3.904 Complaints.

3.904–1 Procedures for filing complaints.

A contractor or subcontractor employee who believes that he or she has been discharged, demoted, or otherwise discriminated against contrary to the policy in 3.903 may submit a complaint with the Inspector General of the agency concerned. Procedures for submitting fraud, waste, abuse, and whistleblower complaints are generally accessible on agency Office of Inspector General hotline or whistleblower internet sites or the complainant may directly contact the cognizant Office of the Inspector General for submission instructions. A complaint under 41 U.S.C. 4712 must be filed within three years from the date on which the alleged reprisal occurred.

3.904–2 Procedures for investigating complaints.

(a) Investigation of complaints will be conducted according to 41 U.S.C. 4712(b).

(b) After the investigation is complete, the head of the agency must ensure the Inspector General provides the report of findings to—

(1) The head of the agency;

(2) The complainant and any person acting on the complainant's behalf; and

(3) The contractor and/or subcontractor alleged to have committed the violation.

(c) The complainant, contractor, and/or subcontractor must have the opportunity to submit a written response to the report of findings. This response must be submitted to the head of the agency and the Office of Inspector General within a timeframe set by the agency that allows the agency head to take action within 30 days after receiving the report, as required by 3.905–1(a).

3.905 Remedies and enforcement of orders.

3.905–1 Remedies.

(a) *Agency response to Inspector General report.* Not later than 30 days after receiving a report pursuant to 3.904–2, the head of the agency must—

(1) Determine whether sufficient basis exists to conclude that the contractor or subcontractor has subjected the employee who submitted the complaint to a reprisal as prohibited by 3.903; and

(2) Either issue an order denying relief or take one or more of the following actions:

(i) Order the contractor or subcontractor to take affirmative action to abate the reprisal.

(ii) Order the contractor or subcontractor to reinstate the complainant employee to their previous position, with compensatory damages (including back pay), employment benefits, and other terms and conditions of employment that would apply if the reprisal had not occurred.

(iii) Order the contractor or subcontractor to pay the complainant employee an amount equal to all costs and expenses (including attorneys' fees and expert witnesses' fees) reasonably incurred by the complainant for, or in connection with, bringing the complaint

regarding the reprisal, as determined by the head of the agency.

(iv) Consider disciplinary or corrective action against any executive agency official, if appropriate.

(b) *Complainant's right to go to court.*

(1) Paragraph (b)(2) of this section applies if—

(i) The head of the agency issues an order denying relief; or

(ii)(A) The head of the agency has not issued an order—

(*1*) Within 210 days after the submission of the complaint; or

(*2*) Within 30 days after the expiration of an extension of time granted in accordance with 41 U.S.C. 4712(b)(2)(B) for the submission of the report to those stated in 3.904–2(b); and

(B) There is no showing that such delay is due to the bad faith of the complainant.

(2) If the conditions in either paragraph (b)(1)(i) or (ii) of this section are met:

(i) The complainant must be deemed to have exhausted all administrative remedies with respect to the complaint; and

(ii) The complainant may bring a de novo action at law or equity against the contractor or subcontractor to seek compensatory damages and other relief available under 41 U.S.C. 4712 in the appropriate U.S. district court, which has jurisdiction regardless of the amount in controversy.

(A) Such an action must, at the request of either party to the action, be tried by the court with a jury.

(B) An action under this authority may not be brought more than 2 years after the date on which remedies are deemed to have been exhausted.

(c) *Admissibility in evidence.* An Inspector General determination and an agency head order denying relief under this section must be admissible in evidence in any *de novo* action at law or equity brought pursuant to 41 U.S.C. 4712.

(d) *No waiver.* The rights and remedies provided for in 41 U.S.C. 4712 may not be waived by any agreement, policy, form, or condition of employment.

3.905–2 Enforcement of orders.

(a) When a contractor or subcontractor fails to comply with an order issued under 3.905–1(a)(2), the head of the agency concerned must file an action to enforce the order in the U.S. district court for the district where the reprisal occurred. In any action brought under this authority, the court may grant appropriate relief, including injunctive relief, compensatory and exemplary damages, and attorney fees and costs. The complainant employee upon whose behalf an order was issued may also file such an action or join an action filed by the head of the agency.

(b) Any person adversely affected or aggrieved by an order issued under 3.905–1(a)(2) may seek review of the order's compliance with 41 U.S.C. 4712 and its implementing regulations in the U.S. court of appeals for the circuit where the reprisal is alleged to have occurred. The petition for review must be filed within 60 days after the head of the agency issues the order. Filing such an appeal does not stop enforcement of the agency head's order unless the court specifically grants a stay.

3.906 Contract clause.

Insert the clause at 52.203–17, Contractor Employee Whistleblower Rights, in all solicitations and contracts, including those for commercial products or commercial services, except those solicitations and contracts of DOD, NASA, the Coast Guard, or elements of the intelligence community (see 3.900(a)).

3.907 [Reserved]

3.908 [Reserved]

3.909 Prohibition on providing funds to an entity that requires certain internal confidentiality agreements or statements.

3.909–1 Prohibition.

(a) The Government cannot use fiscal year 2015 and later fiscal year funds for contracts with entities that require employees or subcontractors to sign internal confidentiality agreements or statements that prohibit or restrict these employees or subcontractors from lawfully reporting waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information. This prohibition comes from section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235) and continues in subsequent appropriations acts (including continuing resolutions).

(b) The prohibition in paragraph (a) of this section does not conflict with requirements for Standard Form 312 (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other Federal government form governing nondisclosure of classified information.

3.909–2 Representation by the offeror.

(a) To be eligible for contract award, an offeror must represent that it will not require its employees or subcontractors to sign internal confidentiality agreements or statements that prohibit or restrict them from lawfully reporting waste, fraud, or abuse related to Government contract performance to authorized Federal investigators (such as agency Office of the Inspector General). Any offeror that does not make this representation is ineligible for contract award.

(b) The contracting officer may rely on an offeror's representation unless there is reason to question it.

3.909–3 Solicitation provision and contract clause.

If using funding subject to the prohibitions in 3.909–1(a), the contracting officer must:

(a)(1) Insert the provision at 52.203–18, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements—Representation, in all solicitations, including those for commercial products or commercial services, except as provided in paragraph (a)(2) of this section; and

(2) Not insert the provision in solicitations for personal services contracts with individuals if the individual will perform all services personally (rather than through contractor or subcontractor employees).

(b)(1) Include the clause at 52.203–19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements, in all solicitations and resulting contracts, including those for commercial products or commercial services, except those for personal services contracts with individuals.

(2) Modify existing contracts, other than personal services contracts with individuals, to include the clause before obligating FY 2015 or later funds that are subject to the same prohibition on internal confidentiality agreements or statements.

Subpart 3.10—Contractor Code of Business Ethics and Conduct

3.1000 Scope of subpart.

This subpart—

(a) Implements 41 U.S.C. 3509, Notification of Violations of Federal Criminal Law or Overpayments; and

(b) Prescribes policies and procedures for the establishment of contractor codes of business ethics and conduct, and display of agency Office of Inspector General (OIG) fraud hotline posters.

3.1001 Definitions.

As used in this subpart—

Subcontract means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

Subcontractor means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.

United States means the 50 States, the District of Columbia, and outlying areas.

3.1002 Policy.

(a) Government contractors must conduct themselves with the highest degree of integrity and honesty.

(b) Contractors should have a written code of business ethics and conduct. To promote compliance with such code of business ethics and conduct, contractors should have an employee business ethics and compliance training program and an internal control system that—

(1) Are suitable to the size of the company and extent of its involvement in Government contracting;

(2) Facilitate timely discovery and disclosure of improper conduct in connection with Government contracts; and

(3) Ensure corrective measures are promptly instituted and carried out.

3.1003 Requirements.

(a) *Contractor requirements.*

(1) Although the policy at 3.1002 provides guidance for all Government contractors, the contract clauses at 52.203–13, Contractor Code of Business Ethics and Conduct, and 52.203–14, Display of Hotline Poster(s), become mandatory when contracts meet the conditions specified in 3.1004.

(2) A contractor may be suspended and/or debarred if a principal knowingly fails to promptly disclose to the Government credible evidence of Federal criminal law violations involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code, or Civil False Claims Act violations. This disclosure requirement applies whether or not clause 52.203–13 is applicable. Failure to timely disclose credible evidence of such violations remains grounds for suspension and/or debarment until 3 years after final contract payment (see part 9).

(3) The Payment clauses at FAR 52.212–4(i)(4), 52.232–25(d), 52.232–26(c), and 52.232–27(l) require contractors to return any contract financing or invoice overpayments they discover to the Government. A contractor may be suspended and/or debarred if a principal knowingly fails to timely disclose credible evidence of a significant overpayment, except for overpayments resulting from contract financing payments as defined in 32.001 (see part 9).

(b) *Notification of possible contractor violation.* If the contracting officer learns of a possible contractor violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C., or a violation of the civil False Claims Act, the contracting officer must:

(1) Coordinate the matter with the agency Office of the Inspector General; or

(2) Take action according to agency procedures.

(c) *Fraud Hotline Poster.*

(1) Agency Offices of Inspector General (OIGs) determine the need for and content of their respective agency OIG fraud hotline poster(s).

(2) When requested by the Department of Homeland Security, agencies must ensure that contracts funded with disaster assistance funds require display of applicable fraud hotline posters. As established by the agency OIG, these posters may be displayed instead of, or in addition to, the agency's standard poster.

3.1004 Contract clauses.

(a) Insert the clause at FAR 52.203–13, Contractor Code of Business Ethics and Conduct, in solicitations and contracts, including those for commercial products or commercial services, if the acquisition value exceeds $7.5 million and the performance period is 120 days or more.

(b)(1) Insert the clause at 52.203–14, Display of Hotline Poster(s), in solicitations and contracts other than those for commercial products or commercial services, or contracts performed entirely outside the United States, if—

(i) The contract exceeds $7.5 million or a lesser amount established by the agency; and

(ii)(A) The agency has a fraud hotline poster; or

(B) The contract is funded with disaster assistance funds.

(2) In paragraph (b)(3) of the clause, the contracting officer must—

(i) Identify the applicable posters; and

(ii) Insert the website link(s) or other contact information for obtaining the agency and/or Department of Homeland Security poster.

(3) In paragraph (d) of the clause, if the agency has established policies and procedures for display of the OIG fraud hotline poster at a lesser amount, the contracting officer must replace ''$7.5 million'' with the lesser amount that the agency has established.

Subpart 3.11—Preventing Personal Conflicts of Interest for Contractor Employees Performing Acquisition Functions

3.1100 Scope of subpart.

This subpart implements policy on personal conflicts of interest by employees of Government contractors as required by 41 U.S.C. 2303.

3.1101 Definitions.

As used in this subpart—

Acquisition function closely associated with inherently governmental functions means supporting or providing advice or recommendations with regard to the following activities of a Federal agency:

(1) Planning acquisitions.

(2) Determining what supplies or services are to be acquired by the Government, including developing statements of work.

(3) Developing or approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria.

(4) Evaluating contract proposals.

(5) Awarding Government contracts.

(6) Administering contracts (including ordering changes or giving technical direction in contract performance or contract quantities, evaluating contractor performance, and accepting or rejecting contractor products or services).

(7) Terminating contracts.

(8) Determining whether contract costs are reasonable, allocable, and allowable.

Covered employee means an individual who performs an acquisition function closely associated with inherently governmental functions and is—

(1) An employee of the contractor; or

(2) A subcontractor that is a self-employed individual treated as a covered employee of the contractor because there is no employer to whom such an individual could submit the required disclosures.

Personal conflict of interest means a situation in which a covered employee has a financial interest, personal activity, or relationship that could impair the employee's ability to act impartially and in the best interest of the Government when performing under the contract. (A *de minimis* interest that would not ''impair the employee's ability to act impartially and in the best interest of the Government'' is not covered under this definition.)

(1) Among the sources of personal conflicts of interest are—

(i) Financial interests of the covered employee, of close family members, or

of other members of the covered employee's household;

(ii) Other employment or financial relationships (including seeking or negotiating for prospective employment or business); and

(iii) Gifts, including travel.

(2) For example, financial interests referred to in paragraph (1) of this definition may arise from—

(i) Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;

(ii) Consulting relationships (including commercial and professional consulting and service arrangements, scientific and technical advisory board memberships, or serving as an expert witness in litigation);

(iii) Services provided in exchange for honorariums or travel expense reimbursements;

(iv) Research funding or other forms of research support;

(v) Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);

(vi) Real estate investments;

(vii) Patents, copyrights, and other intellectual property interests; or

(viii) Business ownership and investment interests.

3.1102 Policy.

The Government's policy is to require contractors to—

(a) Identify and prevent personal conflicts of interest of their covered employees; and

(b) Prohibit covered employees who have access to non-public information by reason of performance on a Government contract from using such information for personal gain.

3.1103 Procedures.

(a) By use of the contract clause at 52.203–16, Preventing Personal Conflicts of Interest, as prescribed at 3.1106, the contracting officer must require each contractor whose employees perform acquisition functions closely associated with inherently Government functions to—

(1) Have procedures in place to screen covered employees for potential personal conflicts of interest by—

(i) Obtaining and maintaining from each covered employee, when the employee is initially assigned to the task under the contract, a disclosure of interests that might be affected by the task to which the employee has been assigned, as follows:

(A) Financial interests of the covered employee, of close family members, or of other members of the covered employee's household.

(B) Other employment or financial relationships of the covered employee (including seeking or negotiating for prospective employment or business).

(C) Gifts, including travel.

(ii) Requiring each covered employee to update the disclosure statement whenever the employee's personal or financial circumstances change in such a way that a new personal conflict of interest might occur because of the task the covered employee is performing.

(2) For each covered employee—

(i) Prevent personal conflicts of interest, including not assigning or allowing a covered employee to perform any task under the contract for which the Contractor has identified a personal conflict of interest that cannot be satisfactorily prevented or reduced in consultation with the contracting agency;

(ii) Prohibit use of non-public information (information not available to the public) accessed through Government contract work for personal gain; and

(iii) Obtain a signed non-disclosure agreement to prohibit disclosure of non-public information accessed through performance of a Government contract.

(3) Inform covered employees of their obligation—

(i) To disclose and prevent personal conflicts of interest;

(ii) Not to use non-public information accessed through performance of a Government contract for personal gain; and

(iii) To avoid even the appearance of personal conflicts of interest;

(4) Maintain effective oversight to verify compliance with personal conflict-of-interest safeguards;

(5) Take appropriate disciplinary action when covered employees fail to comply with policies established pursuant to this section; and

(6) Report any personal conflict-of-interest violation by a covered employee to the contracting officer as soon as identified. This report must include—

(i) A description of the violation;

(ii) The proposed actions the contractor will take in response to the violation; and

(iii) Follow-up reports of corrective actions taken, as necessary.

(b) If a contractor reports a personal conflict-of-interest violation by a covered employee to the contracting officer according to paragraph (b)(6) of clause 52.203–16, Preventing Personal Conflicts of Interest, the contracting officer must—

(1) Review the actions taken by the contractor;

(2) Determine whether the contractor's actions have resolved the violation satisfactorily; and

(3) Take any appropriate action in consultation with agency legal counsel if the contracting officer determines that the contractor has not resolved the violation satisfactorily.

3.1104 Mitigation or waiver.

(a) In exceptional circumstances, if the contractor cannot satisfactorily prevent a personal conflict of interest as required by paragraph (b)(2)(i) of the clause at 52.203–16, Preventing Personal Conflicts of Interest, the contractor may submit a request, through the contracting officer asking the head of the contracting activity to—

(1) Agree to a plan to mitigate the personal conflict of interest; or

(2) Waive the requirement to prevent personal conflicts of interest.

(b) If the head of the contracting activity determines in writing that such action is in the best interest of the Government, the head of the contracting activity may impose conditions that provide mitigation of a personal conflict of interest or grant a waiver.

(c) This authority must not be redelegated.

3.1105 Violations.

If the contracting officer suspects violation by the contractor of a requirement of paragraph (b), (c)(3), or (d) of the clause at 52.203–16, Preventing Personal Conflicts of Interest, the contracting officer must contact the agency legal counsel for advice and/or recommendations on a course of action.

3.1106 Contract clause.

(a) Except as provided in paragraph (b), insert the clause at 52.203–16, Preventing Personal Conflicts of Interest, in solicitations and contracts, other than those for commercial products and commercial services, if-

(1) The acquisition value exceeds the simplified acquisition threshold; and

(2) Contractor employee(s) will be required to perform acquisition functions closely associated with inherently governmental functions for, or on behalf of, a Federal agency or department.

(b) Do not insert the clause in solicitations or contracts with a self-employed individual if the acquisition functions closely associated with inherently governmental functions are to be performed entirely by the self-employed individual.

PART 49—TERMINATION OF CONTRACTS

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Authority: 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

49.000 Scope of part.

(a) This part covers the policy and procedures for terminating contracts early. The Government can terminate contracts for two main reasons:

(1) For its own convenience.

(2) Because the contractor failed to perform (called ''default'').

(b) This part prescribes—

(1) The contract clauses relating to termination and excusable delay; and

(2) Instructions for using termination and settlement forms.

49.001 Definitions.

As used in this part—

Other work means Government and commercial work the contractor is doing now or plans to do later, which does not include work on the contract that was terminated.

Plant clearance period means a set time period that starts when the contract is completed or terminated and ends 90 days after the contracting officer receives acceptable inventory schedules for each property classification. The parties can agree to make this period longer if needed. The final phase starts after the contracting officer receives acceptable inventory schedules.

Settlement agreement means a written agreement in the form of a contract modification that settles all or part of a settlement proposal.

Settlement proposal means a contractor's or subcontractor's proposal for ending a contract terminated in whole or in part. The proposal must use the required forms and include supporting data from this part. Settlement proposals count as ''claims'' under false claims laws (see 18 U.S.C. 287 and 31 U.S.C. 3729).

Unsettled contract change means a contract change or contract term for which a formal modification is required but has not been executed.

49.002 Applicability.

(a)(1) This part applies to contracts that allow termination for Government convenience or contractor default. See part 13 for information on simplified acquisition contracts.

(2) This part does not apply to contracts for commercial products and commercial services awarded under part 12 procedures.

(b) Contractors must use this part to settle subcontracts terminated after a cost-reimbursement prime contract is modified, unless the contracting officer deems such a use inappropriate. The contracting officer must use this part as a guide when reviewing subcontract settlements. This applies when the contractor uses the subcontract settlement as basis for reimbursement under a cost-reimbursement contract.

(c) The contracting officer may use this part to determine equitable adjustments resulting from a modification to contracts other than cost-reimbursement contracts under the Changes clauses.

(d) When this part refers to the ''amount'' of a settlement proposal, calculate as follows:

(1) Start with the total settlement amount requested.

(2) Then subtract—

(i) Amounts due for completed work at the contract price; and

(ii) Amounts for settling subcontractor proposals.

(3) Do not subtract—

(i) Credits from keeping or selling termination inventory; and

(ii) Advance or partial payments already made.

Subpart 49.1—General Principles

49.100 Scope of subpart.

(a) This subpart covers—

(1) The authority and duties of contracting officers to terminate contracts completely or partially for Government convenience or contractor default;

(2) What contractors and contracting officers must do after a termination notice;

(3) Basic procedures for settling terminated contracts; and

(4) Settlement agreements.

(b) More detailed rules are in other subparts. Subparts 49.2 and 49.3 cover convenience terminations and settlements for fixed-price and cost-reimbursement contracts. Subpart 49.4 covers default terminations.

49.101 Authorities and responsibilities.

(a) Contract termination clauses give contracting officers the authority to—

(1) Terminate contracts for convenience or default; and

(2) Enter into settlement agreements under this regulation.

(b) The contracting officer must terminate contracts, whether for default or convenience, only when it is in the Government's interest. Use a no-cost settlement instead of a termination notice when—

(1) It is known that the contractor will accept it;

(2) Government property was not furnished; and

(3) There are no outstanding payments, debts due the Government, or other contractor obligations.

(c) Contracting officers should not terminate a contract for convenience when the remaining work is worth less than $5,000.

(d) After the contracting officer or termination contracting officer (TCO) issues a termination notice, the TCO handles the settlement negotiations, including no-cost settlements if appropriate. The TCO is responsible for working out payment details with the contractor. Auditors and TCOs must work quickly on reviews, negotiations, and give special attention to small business settlements.

(e) When the same item is under contract with both large and small businesses, and the contracting officer needs to terminate some of the undelivered items for convenience, the contracting officer must give preference to continuing small business contracts unless it can be clearly shown that the small business will be unable to provide the item in a timely fashion.

(f) The contracting officer handles releasing extra funds from terminations. This responsibility can be given to the TCO if specified in writing.

49.102 Notice of termination.

(a) *General.* Contracting officers must terminate contracts only with a written notice to the contractor. See 49.601 for the notice format. The notice of termination may be expedited by means of electronic communication capable of providing confirmation of receipt by the contractor. When mailing the notice, use certified mail and request return receipt. If hand-delivering the notice, get written acknowledgment from the contractor. The notice must include the following:

(1) Why the contract is terminated (convenience or default) and the related contract clause.

(2) When the termination takes effect.

(3) How much of the contract is terminated (partial or complete). If partial, which parts are terminated.

(4) Any special instructions.

(5) Steps the contractor should take to help employees if the termination, together with all other outstanding terminations, will cause significant job losses. See 49.601–2, paragraph (g).

(b) *Distribution of copies.* The contracting officer must simultaneously send the termination notice to the contractor; the contract administration office; and any known assignee, guarantor, or surety.

(c) *Amendment of termination notice.* The contracting officer can change a termination notice to—

(1) Fix minor mistakes;

(2) Add more information or instructions; or

(3) Rescind the notice if it is discovered that the terminated items were completed or shipped before the contractor received the notice.

(d) *Reinstatement of terminated contracts.* Upon written consent of the contractor, the contracting office may reinstate a terminated portion of a contract in whole or in part by amending the notice of termination if it has been determined in writing that—

(1) Circumstances clearly indicate that the Government still needs the terminated items; and

(2) Reinstatement benefits the Government.

49.103 Methods of settlement.

(a) Settlement of terminated cost-reimbursement contracts and fixed-price contracts terminated for convenience may be effected by—

(1) Negotiated agreement;

(2) Determination by the TCO;

(3) Costing-out under vouchers using SF 1034, Public Voucher for Purchases and Services Other Than Personal, for cost-reimbursement contracts (as prescribed in subpart 49.3); or

(4) A combination of these methods.

(b) When possible, the TCO should negotiate a fair and prompt settlement with the contractor. The TCO must settle a settlement proposal by determination only when it cannot be settled by agreement.

49.104 Duties of prime contractor after receipt of notice of termination.

After receiving a termination notice, the contractor is required to follow the notice and the termination clause of the contract, except as otherwise directed by the TCO. The notice and clause for convenience terminations generally require the contractor to—

(a) Stop work immediately on the terminated portion of the contract and stop placing subcontracts for that work;

(b) Terminate all subcontracts related to the terminated portion of the prime contract;

(c) Immediately tell the TCO about any special circumstances that prevent stopping work;

(d) Perform the continued portion of the contract and submit promptly any request for an equitable adjustment of price for the continued portion, if the termination is partial. Support this request with evidence of any cost increases;

(e) Take necessary or directed action to protect and preserve property in the contractor's possession in which the Government has or may acquire an interest. When directed by the TCO, deliver this property to the Government;

(f) Promptly notify the TCO in writing of any legal proceedings arising from any subcontract or other commitment related to the terminated portion of the contract;

(g) Settle outstanding liabilities and proposals arising from termination of subcontracts. Get any approvals or ratifications the TCO requires;

(h) Promptly submit the contractor's own settlement proposal, supported by appropriate schedules; and

(i) Dispose of termination inventory as directed or authorized by the TCO.

49.105 Duties of termination contracting officer after issuance of notice of termination.

(a) Following the termination clause and termination notice, the TCO must—

(1) Tell the prime contractor what actions to take;

(2) Review the prime contractor's settlement proposal and, when appropriate, subcontractor settlement proposals;

(3) Quickly negotiate settlement with the contractor and make a settlement agreement; and

(4) Quickly settle the contractor's settlement proposal by determination for portions on which agreement cannot be reached, if a complete settlement cannot be negotiated.

(b) To speed up settlement, the TCO may ask for specially trained personnel to—

(1) Assist in dealings with the contractor;

(2) Advise on legal and contract matters;

(3) Conduct accounting reviews and assist with accounting matters; and

(4) Handle the following termination inventory tasks (see subpart 45.6):

(i) Verify the inventory exists.

(ii) Decide what can be allocated and in what amounts.

(iii) Recommend whether items can be used or are serviceable.

(iv) Do necessary screening and redistribution.

(v) Help the contractor get rid of remaining items.

(c) The TCO should quickly hold a meeting with the contractor to make a clear plan for completing the settlement. When appropriate, after talking with the contractor, major subcontractors should be asked to attend. Topics to be discussed and documented include the following:

(1) Basic rules for settling any settlement proposal, including what the contractor must do under the termination clause.

(2) How much of the contract is terminated, when work stops, and status of plans, drawings, and information that would have been delivered if the contract had been completed.

(3) Status of any continuing work;

(4) The contractor's duty to terminate subcontracts and basic rules for settling subcontractor settlement proposals.

(5) Names of subcontractors involved and dates the termination notices were issued to them.

(6) Contractor staff handling review and settlement of subcontractor settlement proposals and methods being used.

(7) Plans for transferring title and for delivering to the Government any materials the Government needs.

(8) Basic rules and procedures for protecting, preserving, and getting rid of contractor and subcontractor termination inventories, including preparing termination inventory schedules.

(9) Contractor accounting practices and preparation of SF 1439 (Schedule of Accounting Information (49.602–3)).

(10) What form to use when submitting settlement proposals.

(11) Accounting review of settlement proposals.

(12) Any need for interim financing through partial payments.

(13) Rough timeline for negotiating the settlement, including when the contractor and subcontractors must submit settlement proposals, termination inventory schedules, and accounting information schedules (see 49.206–3 and 49.303–2).

(14) Actions taken by the contractor to reduce harm to employees hurt by the termination (see paragraph (g) of the letter notice in 49.601–2).

(15) Contractor's duty to provide accurate, complete, and current cost or pricing data, and to certify this data (see part 15 requirements for certified cost or pricing data) when the termination settlement amount, or partial termination settlement amount plus the estimated cost to complete the continued work, exceeds the cost or pricing data threshold in part 15.

49.105–1 Release of excess funds.

(a) The TCO must estimate funds needed for settlement and should recommend release of excess funds within 30 days of receiving the termination proposal. When circumstances require additional time, the TCO may take up to, but no more than 120 days after receiving the termination proposal to make the recommendation. The contracting officer or TCO (if given the responsibility) should quickly deobligate excess funds and release them for other use. The TCO must not recommend releasing amounts under $1,000 unless requested by the contracting officer.

(b) The TCO must continuously monitor funding requirements in order to release additional excess funds promptly. See 49.604 for a recommended format. If previous funding releases create a shortage for settlement, the TCO must tell the contracting officer immediately. The contracting officer must restore the funds within 30 days.

49.105–2 Cleanup of construction site.

For terminated construction contracts, the contracting officer must direct action to ensure the cleanup of the site, protection of usable materials, removal of hazards, and any other actions needed for a safe and healthy site.

49.105–3 Termination case file documentation.

The TCO responsible for negotiating the final settlement must establish a separate case file for each termination. This file will include memoranda and records of all actions relative to the settlement.

49.106 Fraud or other criminal conduct.

If the TCO suspects fraud or other criminal conduct related to the settlement of a terminated contract, the TCO must discontinue negotiations and report the facts under agency procedures.

49.107 Review of prime contract settlement proposals and subcontract settlements.

(a) *Prime contractor settlement proposals.* The TCO must assess the need for audits of settlement proposals and refer to the audit agency for review based on risk.

(1) When referring proposals, include—

(i) Specific information the TCO considers relevant; and

(ii) Facts and circumstances to help the audit agency.

(2) The audit agency must—

(i) Develop requested information;

(ii) Make additional accounting reviews as appropriate; and

(iii) Submit written comments and recommendations to the TCO.

(3) For proposals that do not need formal examination, the TCO will do a desk review and include a written summary in the termination case file.

(b) *Subcontract settlement proposal.* The TCO must assess the risk associated with subcontract settlements and refer to the audit agency when the TCO decides a complete or partial accounting review is advisable. The audit agency must submit written comments and recommendations to the TCO. This review does not remove the prime contractor's or higher-tier subcontractor's responsibility to do their own accounting review.

(c) *Contractor responsibilities.*

(1) Prime contractors and subcontractors must perform accounting reviews and necessary field audits. However, the TCO should request a Government audit of a subcontractor's settlement proposal when—

(i) A subcontractor objects, for competitive reasons, to an upper-tier contractor reviewing its records for;

(ii) The Government audit agency is already working at the subcontractor's location, or can do the audit more economically;

(iii) Government audit is needed for consistent treatment and orderly administration; or

(iv) The contractor has substantial or controlling financial interest in the subcontractor.

(2) The audit agency should avoid duplicating reviews done by upper-tier contractors. However, this does not prevent additional Government reviews when appropriate.

(3) When contractors perform accounting reviews, the TCO should ask the audit agency to periodically examine the contractor's procedures and performance, and provide comments and recommendations to the TCO.

(d) *Using audit reports.* Audit reports are advisory only. The TCO uses them for negotiating settlements or making unilateral determinations. Government personnel handling audit reports must be careful not to reveal privileged information that could hurt the negotiation position of the Government, prime contractor, or higher-tier subcontractor. When appropriate and in the Government's best interest, the TCO may give audit reports to prime contractors and higher-tier subcontractors for settling subcontract proposals.

49.108 Settlement of subcontract settlement proposals.

49.108–1 Subcontractor's rights.

Subcontractors have no direct contract rights against the Government when a prime contract is terminated. Subcontractors may have rights against the prime contractor or intermediate subcontractor with whom it has contracted. When a prime contract is terminated, the prime contractor and each subcontractor are responsible for promptly settling the settlement proposals of their immediate subcontractors.

49.108–2 Prime contractor's rights and obligations.

(a) Termination for convenience clauses require prime contractors to terminate subcontracts related to terminated prime work unless the TCO directs otherwise. Prime contractors should include termination clauses in their subcontracts for their protection. See subpart 49.5 for suggestions on subcontract termination clauses.

(b) If a prime contractor fails to include proper termination clauses in subcontracts or fails to exercise clause rights, this does not—

(1) Affect the Government's right to require subcontract termination; or

(2) Increase Government obligations beyond what they would have been with proper clauses.

(c) Normally, the TCO should measure the reasonableness of prime contractor settlements with subcontractors by the total amount due under paragraph (f) of the subcontract termination clause suggested in 49.502(e). The TCO must allow reimbursement above that amount only in unusual cases and only when the subcontract terms did not unreasonably increase the subcontractor's rights.

49.108–3 Settlement procedure.

(a) Contractors must settle with subcontractors following the same policies and principles used for prime contract settlements in this subpart and subparts 49.2 or 49.3. However, the basis and form of the subcontractor's settlement proposal must be acceptable to the prime contractor or the next higher tier subcontractor. Each settlement must have enough accounting data and other information for the Government to adequately review it. The Government will never pay the prime contractor any amount for lost anticipated profits or consequential damages from terminating any subcontract (but see 49.108–5).

(b) Except as provided in 49.108–4, the TCO must require that—

(1) All subcontractor termination inventory be disposed of and accounted for following the procedures in paragraph (j) of clause 52.245–1, Government Property; and

(2) The prime contractor submit all termination settlements with subcontractors for approval or ratification.

(c) The TCO must quickly examine each subcontract settlement received to determine whether—

(1) The subcontract termination was necessary because of the prime contract termination (or because of a change order—see 49.002(c));

(2) The settlement was made in good faith;

(3) The settlement amount is reasonable; and

(4) The settlement is allocable to the terminated portion of the contract (or if only partially allocable, that the proposed allocation is reasonable).

(d) When considering if any subcontract settlement is reasonable, the TCO must generally follow the provisions in this part for settling prime contracts. The TCO must also comply with any applicable requirements in 49.106 and 49.111 for accounting and other reviews. After the examination, the TCO must notify the contractor in writing of—

(1) Approval or ratification; and

(2) The reasons for disapproval.

49.108–4 Authorization for subcontract settlements without approval or ratification.

(a)(1) The TCO may give written authorization to the prime contractor to complete settlements of subcontracts terminated in whole or in part without approval or ratification when the settlement amount (see 49.002(d)) is $100,000 or less. This requires a written request from the contractor. The TCO may grant this authorization if—

(i) The TCO is satisfied with the adequacy of the procedures used by the contractor in settling settlement proposals, including proposals for keeping, selling, or otherwise disposing of termination inventory of the immediate and lower tier subcontractors. The TCO must obtain advice and recommendations from—

(A) The appropriate audit agency about the adequacy of the contractor's audit administration, including personnel; and

(B) The cognizant plant clearance officer about the adequacy of the contractor's procedures and personnel for handling property disposal matters;

(ii) Any termination inventory included in determining the settlement amount will be disposed of as directed by the prime contractor, except that

disposing of the inventory will not be subject to—

(A) Review by the TCO under 49.108–3(c); or

(B) The screening requirements in 45.602–3; and

(iii) A certificate similar to the certificate in the settlement proposal form in 49.602–1(a) will accompany the settlement.

(2) Except as stated in paragraph (a)(4) of this section, authority granted to a prime contractor under paragraph (a)(1) of this section by any TCO must apply to all Executive agencies' prime contracts that are terminated or modified by change orders.

(3) Except as stated in paragraph (a)(4) of this section, the TCO must accept settlements of terminated lower tier subcontracts as part of the prime contractor's settlement proposal. This applies when the settlements are completed by any of the prime contractor's immediate or lower-tier subcontractors who have been granted authority as prime contractors to settle subcontracts, provided that the settlement is within the limit of the authority. Authorization to settle proposals of lower-tier subcontractors must not be granted directly to subcontractors. However, a prime contractor authorized to approve subcontractor settlements may also exercise this authority when acting as a subcontractor for its terminated subcontracts and orders. When exercising this authority as a subcontractor, the contractor must notify the purchaser.

(4) The provisions of paragraphs (a)(1), (2), and (3) of this section do not apply to contracts under the administration of any contracting officer if the contracting officer notifies the prime contractor concerned. This notice must—

(i) Be in writing; and

(ii) If paragraph (a)(3) of this section is involved, specify any subcontractor affected.

(b) Section 45.602 must apply to disposal of completed end items allocable to the terminated subcontract. However, these items may be disposed of without review by the TCO under 49.108–3 and without screening under 45.602–3, if the items do not require demilitarization and the total amount (at the subcontract price) when added to the settlement amount does not exceed the amount authorized under this section.

(c) A TCO granting the authorization in paragraph (a)(1) of this section must periodically (at least annually) make a selective review of settlements and settlement procedures. This review determines if the contractor is making adequate reviews and fair settlements, and whether the authorization should remain in effect. The TCO must obtain advice and recommendations from the appropriate audit agency and the cognizant plant clearance officer. The TCO must revoke the authorization by written notice to the contractor, effective on the date of receipt, when—

(1) The contractor's procedures are not adequate;

(2) Improper settlements are being made; or

(3) The authority has not been used in the preceding 2 years.

(d) The contractor may make any number of separate settlements with a single subcontractor but must not divide settlement proposals solely to bring them under an authorization limit. Separate settlement proposals that would normally be included in a single proposal, such as those based on a series of separate orders for the same item under one contract, must be consolidated whenever possible.

(e) Upon written request of the contractor, the TCO may increase an authorization granted under paragraph (a)(1) of this section to authorize the contractor to conclude settlements under a particular prime contract. The TCO may limit the increased authorization to specific subcontracts or classes of subcontracts.

(f) Authorizations granted under 49.108–4 do not authorize the settlement of requisitions or orders placed with any unit within the contractor's corporate entity.

49.108–5 Recognition of judgments and arbitration awards.

(a) When a subcontractor obtains a final judgment against a prime contractor, the TCO must treat the judgment amount as a cost of settling with the contractor. This applies to the extent the judgment is properly allocable to the terminated portion of the prime contract, if these conditions are met:

(1) The prime contractor made reasonable efforts to include in the subcontract a termination clause described in 49.502(e), 49.503(c), or a similar clause that excludes payment of anticipatory profits or consequential damages.

(2) The subcontract provisions about termination rights of both parties are fair and reasonable and do not unreasonably increase the subcontractor's common law rights.

(3) The contractor made reasonable efforts to settle the subcontractor's settlement proposal.

(4) The contractor promptly notified the contracting officer when the proceedings that led to the judgment began and did not refuse to give the Government control of the defense.

(5) The contractor defended the suit diligently or, if the Government took control of the defense, provided reasonable assistance when requested.

(b) If not all conditions in paragraphs (a)(1) through (5) of this section are met, the TCO may allow the contractor the part of the judgment considered fair for settling the subcontract proposal. The TCO must consider the policies in this part for settlement proposals.

(c) When a contractor and subcontractor submit the subcontractor's settlement proposal to arbitration under any applicable law or contract provision, the TCO must recognize the arbitration award as the cost of settling the contractor's proposal. This applies to the same extent and under the same conditions as in paragraphs (a) and (b) of this section.

49.108–6 Delay in settling subcontractor settlement proposals.

When a prime contractor's inability to settle with a subcontractor delays prime contract settlement, the TCO may settle with the prime contractor. The TCO must exclude the subcontractor settlement proposal from the settlement completely or partially and reserve the rights of the Government and prime contractor regarding the subcontractor proposal.

49.108–7 Assignment of rights under subcontracts.

(a) Termination for convenience clauses in 52.249 (except short-form clauses) require prime contractors to assign to the Government all rights, titles, and interests under any subcontract terminated because of prime contract termination. The TCO directs this assignment. The TCO must not require assignment unless it benefits the Government.

(b) Termination for convenience clauses (except short-form clauses) also give the Government the right to settle and pay any settlement proposal from a subcontract termination at its discretion. This right does not obligate the Government to settle and pay subcontractor settlement proposals. Generally, the prime contractor must settle and pay these proposals. However, when the TCO determines it benefits the Government, the TCO must settle the subcontractor's proposal using prime contract settlement procedures after notifying the contractor (*e.g.,* when a subcontractor is the only source and a delay by the prime contractor in

settlement or payment would hurt the subcontractor's financial position). Direct settlements with subcontractors are not encouraged.

49.109 Settlement agreements.

49.109–1 General.

When a termination settlement has been negotiated and all required reviews have been obtained, the contractor and the TCO must execute a settlement agreement. Use Standard Form 30 (Amendment of Solicitation/Modification of Contract) (see 49.603). The settlement must cover—

(a) Any offsets that the Government has against the contractor that may be applied against the terminated contract; and

(b) All subcontractor settlement proposals, except proposals that are specifically excluded from the agreement and reserved for separate settlement.

49.109–2 Reservations.

(a) The TCO must—

(1) Reserve in the settlement agreement any rights or demands of the parties that are excluded from the settlement;

(2) Ensure reservation wording does not create rights for the parties beyond those existing before executing the settlement agreement;

(3) Mark each applicable settlement agreement with ''This settlement agreement contains a reservation'' and keep in the contract file until the reservation is removed;

(4) Ensure sufficient funds are kept to cover complete settlement of reserved items; and

(5) At the appropriate time, prepare a separate settlement of reserved items and include it in a separate settlement agreement.

(b) A recommended format for settlement of reservations appears in 49.603–9.

49.109–3 Government property.

Before executing a settlement agreement, the TCO must determine the accuracy of the Government property account for the terminated contract. If an audit reveals property the contractor cannot account for, the TCO must either—

(a) Reserve the Government's rights regarding that property in the settlement agreement; or

(b) Make an appropriate deduction from the amount otherwise due the contractor.

49.109–4 No-cost settlement.

The TCO must execute a no-cost settlement agreement (see 49.603–6 or 49.603–7, as applicable) if no amounts are due to the Government under the contract and if—

(a) The contractor has not incurred costs for the terminated contract portion; or

(b) The contractor is willing to waive the costs incurred.

49.109–5 Partial settlements.

The TCO should try to settle all rights and liabilities of the parties in one agreement except those from any continuing contract portion. Generally, the TCO must not make partial settlements covering particular items of the prime contractor's settlement proposal. However, the TCO may make a partial settlement when complete settlement cannot be finished promptly if—

(a) Agreed upon issues are clearly severable from other issues; and

(b) The partial settlement will not hurt the Government's or contractor's interests in disposing of the unsettled part.

49.109–6 Joint settlement of two or more settlement proposals.

(a) With contractor consent, the TCO or TCOs concerned may jointly negotiate two or more termination settlement proposals with the same contractor under different contracts, even if the contracts are with different contracting offices or agencies. Consolidate accounting work as much as practical. The resulting settlement may be shown by—

(1) One settlement agreement covering all contracts involved; or

(2) A separate agreement for each contract involved.

(b) When the settlement agreement covers more than one contract, it must—

(1) Clearly identify the contracts involved;

(2) Assign an amendment modification number to each contract;

(3) Divide the total settlement amount among the contracts on some reasonable basis;

(4) Have attached or incorporated a schedule showing the division; and

(5) Be distributed and attached to each contract involved the same way as other contract modifications.

49.109–7 Settlement by determination.

(a) *General.* If the contractor and TCO cannot agree on a termination settlement, or if a settlement proposal is not submitted within the period required by the termination clause, the TCO must issue a determination of the amount due. This determination must be consistent with the termination clause, including any cost principles incorporated by reference. The TCO must comply with 49.109–1 through 49.109–6 in making a settlement by determination and with 49.203 in making an adjustment for loss, if any.

(b) *Notice to contractor.* Before issuing a determination of the amount due the contractor, the TCO must give the contractor at least 15 days' notice by certified mail (return receipt requested) to submit written evidence. The evidence must reach the TCO on or before a stated date and must support the amount previously proposed.

(c) *Justification of settlement proposal.*

(1) The contractor has the burden of establishing the proposed amount by proof satisfactory to the TCO.

(2) The contractor may submit vouchers, verified transcripts of books of account, affidavits, audit reports, and other documents as desired. The TCO may request the contractor to submit additional documents and data, and may request appropriate accountings, investigations, and audits.

(3) The TCO may accept copies of documents and records without requiring original documents unless there is a question of authenticity.

(4) The TCO may hold any conferences considered appropriate—

(i) To confer with the contractor;

(ii) To obtain additional information from Government personnel or from independent experts; or

(iii) To consult persons who have submitted affidavits or reports.

(d) *Determinations.* After reviewing the information available, the TCO must determine the amount due and must transmit a copy of the determination to the contractor by certified mail (return receipt requested), or by any other method that provides evidence of receipt. The transmittal letter must advise the contractor that the determination is a final decision from which the contractor may appeal under the Disputes clause, except as shown in paragraph (f) of this section. The determination must specify the amount due the contractor and will be supported by detailed schedules conforming generally to the forms for settlement proposals prescribed in 49.602–1 and by additional information, schedules, and analyses as appropriate. The TCO must explain each major item of disallowance. The TCO need not reconsider any other action relating to the terminated portion of the contract that was ratified or approved by the TCO or another contracting officer.

(e) *Preservation of evidence.* The TCO must retain all written evidence and other data relied upon in making a determination, except that copies of

original books of account need not be made. The TCO must return books of account, together with other original papers and documents, to the contractor within a reasonable time.

(f) *Appeals.* The contractor may appeal, under the Disputes clause, any settlement by determination, except when the contractor has failed to submit the settlement proposal within the time provided in the contract and failed to request an extension of time. The pendency of an appeal will not affect the authority of the TCO to settle the settlement proposal or any part by negotiation with the contractor at any time before the appeal is decided.

(g) *Decision on the contractor's appeal.* The TCO must give effect to a decision of the United States Court of Federal Claims or a board of contract appeals, when necessary, by an appropriate modification to the contract. When appropriate, the TCO should obtain a release from the contractor. TCOs are authorized to modify the formats of settlement agreements in 49.603 to agree with this provision.

49.110 Settlement negotiation memorandum.

(a) The TCO must, at the conclusion of negotiations, prepare a settlement negotiation memorandum describing the principal elements of the settlement for inclusion in the termination case file and for use by reviewing authorities. Pricing aspects of the settlement must be documented, and memorandum distributed, both in accordance with part 15.

(b) If the settlement was negotiated on the basis of individual items, the TCO must specify the factors considered for each item. If the settlement was negotiated on an overall lump-sum basis, the TCO need not evaluate each item or group of items individually but must support the total amount of the recommended settlement in reasonable detail. The memorandum must include explanations of matters involving differences and doubtful questions settled by agreement, and the factors considered. The TCO should include any other matters that will assist reviewing authorities in understanding the basis for the settlement.

49.111 Review of proposed settlements.

Each agency must establish procedures for administrative review of proposed termination settlements when necessary. When one agency provides termination settlement services for another agency, the agency providing the services must also perform the settlement review function.

49.112 Payment.

49.112–1 Partial payments.

(a) *General.* If the contract authorizes partial payments on settlement proposals before settlement, a prime contractor may request them on the form prescribed in 49.602–4 at any time after submission of interim or final settlement proposals. The Government will process applications for partial payments promptly. A subcontractor must submit its application through the prime contractor. The prime contractor must attach its own invoice and recommendations to the subcontractor's application. Partial payments to a subcontractor must be made only through the prime contractor and only after the prime contractor has submitted its interim or final settlement proposal. Except for undelivered acceptable finished products, partial payments must not be made for profit or fee claimed under the terminated portion of the contract. In exercising discretion on the extent of partial payments to be made, the TCO must consider the diligence of the contractor in settling with subcontractors and in preparing its own settlement proposal.

(b) *Amount of partial payment.* Before approving any partial payment, the TCO must obtain any desired accounting, engineering, or other specialized reviews of the data submitted in support of the contractor's settlement proposal. If the reviews and the TCO's examination of the data indicate that the requested partial payment is proper, the TCO may authorize reasonable payments up to—

(1) 100 percent of the contract price, adjusted for undelivered acceptable items completed before the termination date, or later completed with the approval of the TCO (see 49.205);

(2) 100 percent of the amount of any subcontract settlement paid by the prime contractor if the settlement was approved or ratified by the TCO under 49.108–3(c) or was authorized under 49.108–4;

(3) 90 percent of the direct cost of termination inventory, including costs of raw materials, purchased parts, supplies, and direct labor;

(4) 90 percent of other allowable costs (including settlement expense and manufacturing and administrative indirect costs) allocable to the terminated portion of the contract and not included in paragraphs (b)(1), (2), or (3) of this section; or

(5) 100 percent of partial payments made to subcontractors under this section.

(c) *Recognition of assignments.* When an assignment of claims has been made under the contract, the Government must not make partial payments to other than the assignee unless the parties to the assignment consent in writing (see part 32).

(d) *Security for partial payments.* If any partial payment is made for completed end items or for costs of termination inventory, the TCO must protect the Government's interest. This must be done by obtaining title to the completed end items or termination inventory, or by the creation of a lien in favor of the Government, paramount to all other liens, on the completed end items or termination inventory, or by other appropriate means.

(e) *Deductions in computing amount of partial payments.* The TCO must deduct from the gross amount of any partial payment otherwise payable under 49.112–1(b)—

(1) All unliquidated balances of progress and advance payments (including interest) made to the contractor, which are allocable to the terminated portion of the contract; and

(2) The amounts of all credits arising from the purchase, retention, or sale of property, the costs of which are included in the application for payment.

(f) *Limitation on total amount.* The total amount of all partial payments must not exceed the amount that will, in the opinion of the TCO, become due to the contractor because of the termination.

(g) *Effect of overpayment.* If the total of partial payments exceeds the amount finally determined due on the settlement proposal, the contractor must repay the excess to the Government on demand, together with interest. The interest must be computed at the rate established by the Secretary of the Treasury under 41 U.S.C. 7109 from the date the excess payment was received by the contractor to the date of repayment. However, interest will not be charged for any—

(1) Excess payment attributable to a reduction in the settlement proposal because of retention or other disposition of termination inventory, until 10 days after the date of the retention or disposition, or a later date determined by the TCO; or

(2) Overpayment under cost-reimbursement research and development contracts without profit or fee if the overpayments are repaid to the Government within 30 days after demand.

(h) *Certification and approval of partial payments.*

(1) The contractor must place the following certification on vouchers or invoices for partial payments:

''The payment covered by this voucher is a partial payment on the Contractor's settlement proposal under contract No. _____ under part 49 of the Federal Acquisition Regulation.''

(2) The TCO must approve the invoice or voucher by noting on it the following: ''Payment of $ _____ is approved.''

49.112–2 Final payment.

(a) *Negotiated settlement.* After execution of a settlement agreement, the contractor must submit a voucher or invoice showing the amount agreed upon, less any portion previously paid. The TCO must attach a copy of the settlement agreement to the voucher or invoice and forward the documents to the disbursing officer for payment.

(b) *Settlement by determination.* If the settlement is by determination and—

(1) There is no appeal within the allowed time, the contractor must submit a voucher or invoice showing the amount determined due, less any portion previously paid; or

(2) There is an appeal, the contractor must submit a voucher or invoice showing the amount finally determined due on the appeal, less any portion previously paid. Pending determination of any appeal, the contractor may submit vouchers or invoices for charges that are not directly involved with the portion being appealed, without prejudice to the rights of either party on the appeal.

(c) *Construction contracts.* In the case of construction contracts, before forwarding the final payment voucher, the contracting officer must ascertain whether there are any outstanding labor violations. If so, the contracting officer must determine the amount to be withheld from the final payment (see part 22).

(d) *Interest.* The Government must not pay interest on the amount due under a settlement agreement or a settlement by determination. The Government may, however, pay interest on a successful contractor appeal from a contracting officer's determination under the Disputes clause at 52.233–1.

49.113 Unsettled contract changes.

(a) Before settling a completely terminated contract, the TCO must get a list from the contracting office of all related contract changes that have not been settled. The TCO must settle all unsettled contract changes as part of the final settlement. Get recommendations from the contracting office about the changes before settling them.

(b) When only part of a contract has been terminated, the contracting officer will usually handle any outstanding unsettled contract changes. However, the contracting officer may delegate this job to the TCO.

49.114 Settlement of terminated incentive contracts.

(a) *Fixed-price incentive contracts.* The TCO must settle terminated fixed-price incentive contracts using the rules in paragraph (j) of clause 52.216–16, Incentive Price Revision-Firm Target, and clause 52.249–2, Termination for Convenience of the Government (Fixed-Price).

(1) *Partial termination.* When only part of a contract is terminated, the TCO must negotiate a settlement using the termination clause and the incentive price revision clause. The contracting officer must apply the incentive price rules to completed items the Government accepted, including any items the contractor may ask for payment in the settlement proposal. The TCO must pay the contractor the target price for completed items included in the settlement proposal that do not have a final price yet. The TCO must include in the settlement agreement an appropriate reservation about final pricing for these completed items.

(2) *Complete termination.* If any items were delivered and accepted by the Government, the contracting officer must set prices using the contract's incentive provisions. For the terminated portion of the contract, the termination clause rules apply and the incentive clause rules do not apply. The TCO handling the termination settlement will make sure no costs from the incentive negotiations are included in the termination settlement. The TCO must coordinate with the contracting officer and use proper evidence to ensure this.

(b) *Cost-plus-incentive-fee contracts.* The TCO must settle terminated cost-plus-incentive-fee contracts using clause 52.249–6, Termination (Cost-Reimbursement).

(1) *Partial termination.* When only part of a contract is terminated, the TCO must limit the settlement to adjusting the target fee as provided in paragraph (e) of clause 52.216–10, Incentive Fee. The settlement agreement must include a note about any target cost adjustment from the partial termination. The contracting officer must adjust the target cost if needed.

(2) *Complete termination.* The parties must negotiate the settlement using the rules in subpart 49.3 and clause 52.249–6, Termination (Cost Reimbursement). The fee must be adjusted based on the target fee. Incentive provisions must not be applied or considered.

Subpart 49.2—Additional Principles for Fixed-Price Contracts Terminated for Convenience

49.201 General.

(a) Fair compensation involves judgment and has no exact measurement. Different methods can determine fair compensation. Business judgment, not strict accounting rules, is most important when making settlements. Settlements should pay contractors fairly for—

(1) Work they have completed;

(2) Preparations they made for terminated portions of the contract; and

(3) A reasonable profit amount.

(b) The main goal is to reach an agreed settlement. Parties can agree on a total payment amount without breaking down specific costs or profit components.

(c) Cost and accounting information helps guide—but does not strictly control—fair compensation decisions. When appropriate—

(1) Costs can be estimated;

(2) Differences can be compromised; and

(3) Uncertain matters can be resolved through agreement.

(d) Other data types or standards might provide equally reliable guidance. Keep recordkeeping, reporting, and accounting for terminated contracts to a minimum while protecting public interest.

49.202 Profit.

(a) The TCO can use any reasonable method to determine a fair profit.

(1) The TCO must pay profit to the contractor for—

(i) Work they did on the terminated part; and

(ii) Preparations made for the terminated portion of work.

(2) Do not pay profit for—

(i) Settlement costs (the costs of working out the final payment);

(ii) To cover the profit amount the contractor expected to make on work they never did (anticipatory profits); or

(iii) Consequential damages.

(3) When the contractor helps settle subcontractor proposals, do not base their profit on the amount of those settlements. The effort involved in reaching settlement may be considered.

(4) Do not pay profit for materials or services that subcontractors had not delivered by the termination date, regardless of the percentage of completion.

(b) The TCO can use any reasonable method to determine a fair profit, taking into account the following factors:

(1) How much and how hard was the work compared to all the work the

contract required. Engineering estimates are not required but should be considered if they are available.

(2) Engineering work, planning schedules, technical studies, supervision, and other needed services.

(3) How well the contractor did, especially—

(i) Making quality products on time;

(ii) Keeping costs down;

(iii) Using materials, buildings, and workers economically; or

(iv) Disposition of termination inventory.

(4) How much money the contractor put in and how much risk they took.

(5) New ideas and technical help the contractor gave to the Government and other contractors.

(6) The type of business, including where materials come from and how complicated the manufacturing is.

(7) The rate of profit that the contractor would have earned if they had finished the whole contract.

(8) The rate of profit both parties expected when they made the contract.

(9) How hard it was to manage subcontractors, including picking them, placing contracts with them, managing them, and working out settlements when their contracts were terminated.

(c) For construction contracts, the contracting officer must—

(1) Follow paragraphs (a) and (b) of this section;

(2) Allow profit on settlements with construction subcontractors for actual work done at the job site; and

(3) Exclude profit on settlements with construction subcontractors for materials they had on hand or preparations made to complete the work.

49.203 Adjustment for loss.

(a) When settling a terminated contract, the TCO must not allow profit if the contractor would have lost money completing the full contract. The TCO must—

(1) Figure out how much the contractor would have lost;

(2) Adjust the settlement payment accordingly using the methods in paragraph (b) or (c) of this section; and

(3) Consider factors like production efficiency when estimating completion costs.

(b) For inventory-based settlements payment is limited to the sum of items in paragraphs (b)(1), (2), and (3) of this section, minus all disposal credits and minus all unliquidated previous advance and progress payments previously made—

(1) The settlement expenses;

(2) The contract price for acceptable completed items;

(3) The remainder of the settlement amount otherwise agreed upon or determined (including the allocable portion of initial costs (see part 31), reduced by multiplying the remainder by the ratio of (i) the total contract price to (ii) the total cost incurred before termination plus the estimated cost to complete the entire contract.

(c) If the settlement is on a total cost basis (see 49.206–2(b)), the contractor must not be paid more than the total of the amounts in paragraphs (c)(1) and (2) of this section, minus all disposal and other credits, all advanced and progress payments, and all other amounts previously paid under the contract:

(1) The amount negotiated or determined for settlement expenses.

(2) The remainder of the total settlement amount otherwise agreed upon or determined (lines 7 and 14 of SF 1436, Settlement Proposal (Total Cost Basis)) reduced by multiplying the remainder by the ratio of

(i) the total contract price to

(ii) the remainder plus the estimated cost to complete the entire contract.

49.204 Deductions.

From the settlement payment, the TCO must subtract—

(a) The price of any inventory kept or purchased by the contractor, plus proceeds from materials sold but not yet paid or credited to the Government;

(b) The fair value, as determined by the TCO, of any inventory that was lost, damaged beyond usability, or not delivered to the Government (normal spoilage is expected, as is inventory for which the Government has expressly assumed the risk of loss);

(c) Any other appropriate amounts for that specific case.

49.205 Completed end items.

(a) Right after the termination date, the TCO must—

(1) Have all undelivered finished products inspected and accepted if they meet contract requirements; and

(2) Decide which accepted products should be delivered under the contract.

(b) The contractor must bill for accepted and delivered products at the contract price in the normal way. Do not include these in the settlement proposal.

(c) When finished products are accepted but will not be delivered under the contract, the TCO should include them in the settlement proposal at the contract price. The TCO should adjust for any savings in shipping or other costs, and include any credits for buying, keeping, or selling them.

(d) Work in place accepted by the Government under a construction contract is not considered a completed item, even if the Government paid for it at unit prices specified in the contract.

49.206 Settlement proposals.

49.206–1 Submission of settlement proposals.

(a) Subject to the termination clause, the contractor should quickly submit a settlement proposal to the TCO for the amount claimed because of the termination. The final settlement proposal must be submitted within 90 days from the termination date, unless the TCO allows more time. If a single contract involves two or more divisions of the contractor, they can combine their termination costs in a single settlement proposal.

(b) The settlement proposal must cover all cost elements including settlements with subcontractors and any proposed profit. With the TCO's agreement, proposals may be filed in steps covering separate parts of costs. These step-by-step proposals must include all costs of a particular type, unless the TCO says otherwise.

(c) Settlement proposals must be on the forms prescribed in 49.602 unless those forms do not work for a particular contract. Settlement proposals must have reasonable detail supported by adequate accounting data. Actual costs, standard costs (properly adjusted), or average costs may be used if the contractor determines them based on generally accepted accounting principles consistently followed by the contractor. When actual, standard, or average costs are not reasonably available, estimated costs may be used if the TCO approves the estimation method. Contractors do not have to maintain overly complicated cost accounting systems just because their contracts might be terminated.

(d) The contractor should use Settlement Proposal (Short Form), SF 1438, when the total proposal is less than $10,000, unless the TCO authorizes otherwise. Combine settlement proposals that would normally go together whenever possible, such as those based on a series of separate orders for the same item under one contract. Do not split them up just to bring them below $10,000.

(e) Submit Schedule of Accounting Information, SF 1439, for each termination requiring a settlement proposal, except when using Standard Form 1438. Even if several step-by-step proposals are submitted, only one SF 1439 should be submitted unless major changes happen in the information after the original form is filed.

49.206–2 Bases for settlement proposals.

(a) *Inventory basis.*

(1) The inventory basis is the preferred method for settlement proposals. With this approach, the contractor may propose only costs allocable to the terminated portion of the contract. The settlement proposal must separately list—

(i) Metals, raw materials, purchased parts, work in process, finished parts, components, dies, jigs, fixtures, and tooling, at purchase or manufacturing cost;

(ii) Charges such as engineering costs, initial costs, and general administrative costs;

(iii) Costs of settlements with subcontractors;

(iv) Settlement expenses; and

(v) Other proper charges.

(2) An allowance for profit (49.202) or adjustment for loss (49.203(b)) must be added to complete the gross settlement proposal. All unliquidated advance and progress payments and all disposal and other known credits must then be subtracted.

(3) The inventory basis is also appropriate for—

(i) The partial termination of a construction or related professional services contract.

(ii) The partial or complete termination of supply orders under any terminated construction contract.

(iii) Complete termination of a unit-price professional services contract (not lump-sum contracts).

(b) *Total cost basis.*

(1) When the inventory basis is not practical or would cause delays, the total-cost basis (SF 1436) may be used if the TCO approves it in advance. Examples include the following:

(i) When production has not started and costs represent planning, preproduction, or ''get ready'' expenses.

(ii) When the contractor's accounting system cannot easily establish unit costs for work in process and finished products.

(iii) When the contract does not specify unit prices.

(iv) When the termination is complete and involves a letter contract.

(2) For a complete termination using the total-cost basis, the contractor must itemize costs incurred under the contract up to the effective date of termination. The costs of settlements with subcontractors and applicable settlement expenses must also be added. An allowance for profit or adjustment for loss must be made. The contract price for all end items delivered or to be delivered and accepted must be deducted. All unliquidated advance and progress payments and known disposal and other credits must also be deducted.

(3) For a partial termination using the total-cost basis, the contractor must wait until completing the continued portion of the contract before submitting the proposal. The proposal must follow paragraph (b)(2) instructions, except it must include all costs incurred up to the completion of the continued portion.

(4) For a completely terminated construction contract or lump-sum professional services contract, the contractor must—

(i) Use the total cost basis of settlement;

(ii) Omit Line 10 ''Deduct-Finished Product Invoiced or to be Invoiced'' from Section II of SF 1436 Settlement Proposal (Total Cost Basis); and

(iii) Reduce the gross settlement amount by the total of all progress and other payments.

(c) *Other basis.* Settlement proposals cannot be submitted on any basis other than paragraph (a) or (b) of this section without prior approval from the chief of the contracting or contract administration office.

49.206–3 Submission of inventory disposal schedules.

Subject to the termination clause terms, the contractor should prepare inventory schedules on Standard Form 1428, Inventory Disposal Schedule, listing inventory which is allocable to the terminated portion of the contract. The schedules must be submitted within 60 days of the effective date of termination unless the deadline is extended by the TCO.

49.207 Limitation on settlements.

The total amount payable to the contractor for a settlement, before subtracting disposal or other credits and not counting settlement costs, must not be more than the contract price minus payments already made or to be made under the contract.

49.208 Equitable adjustment after partial termination.

Under the termination clause, after partial termination, a contractor can request an equitable adjustment in the price of the continued part of a fixed-price contract. The TCO must forward the proposal to the contracting officer except when the TCO has authority to negotiate. The contractor must submit the proposal using the format in the Uniform Contract Format shown in part 15.

(a) When the contracting officer keeps responsibility for negotiating the equitable adjustment and making a supplemental agreement, the contracting officer must make sure no part of a price increase is included in a termination settlement made or in process.

(b) The TCO must also make sure no part of the costs included in the equitable adjustment are included in the termination settlement.

Subpart 49.3—Additional Principles for Cost-Reimbursement Contracts Terminated for Convenience

49.301 General.

Cost-reimbursement contract termination clauses cover both cost and fee settlements. The contract explains which costs are allowed.

49.302 Discontinuance of vouchers.

(a) After complete contract termination, the contractor must stop using Standard Form 1034 (Public Voucher) after the last day of the sixth month following the month of the termination. The contractor may elect to stop using the form any time during the 6-month period. When the contractor has vouchered out all costs within the 6-month period, a proposal for fee, if any, may be submitted on SF 1437 or by certified letter. The contractor must submit fee proposals to the TCO within 90 days of termination, unless the deadline is extended by the TCO. When use of vouchers is discontinued, the contractor must submit all unvouchered costs and the proposed fee, if any, as specified in 49.303.

(b) For partial terminations, see section 49.304.

49.303 Procedure after discontinuing vouchers.

49.303–1 Submission of settlement proposal.

Unless extended by the TCO, within 90 days of the effective date of termination, the contractor must submit a final proposal for unvouchered costs and any fee, using the form in 49.602–1 unless the TCO approves another format. The proposal must not include—

(a) Any costs already disallowed by the Government; or

(b) Previously questioned costs still under review.

49.303–2 Submission of inventory disposal schedules.

For termination inventory, contractors must submit complete inventory disposal schedules to the TCO, only reflecting items allocable to the terminated portion. These schedules must be submitted within 60 days of termination and be prepared on Standard Form 1428. TCO approval in writing is required for any time extensions.

49.303–3 Audit of settlement proposal.

The TCO must submit the settlement proposal for audit review unless it only adjusts the fee.

49.303–4 Adjustment of indirect costs.

(a) To avoid delays when the contract has the 52.216–7 clause (Allowable Cost and Payment), the TCO may—

(1) Negotiate indirect costs when final rates have not been negotiated;

(2) Use reasonable billing rates as final rates; or

(3) Save the indirect cost adjustment for the final settlement agreement when rates are established.

(b) When negotiating indirect costs the contractor must remove these costs and related direct costs from calculations for other contracts during the same accounting period.

49.303–5 Final settlement.

(a) The TCO finalizes the settlement after receiving the audit report (if needed), and the contract audit closing statement for costs vouchered.

(b) Fee adjustments follow 49.305.

(c) The final agreement may resolve all issues between both parties. However—

(1) Costs disallowed by the Government are not allowable; and

(2) Costs of the same nature as those disallowed are not allowable.

(d) Parties can agree on total costs without agreeing on each individual item. Differences can be compromised, and uncertain issues can be resolved by agreement. However, an overall settlement must not include costs that are unallowable under the terms of the contract.

49.304 Procedure for partial termination.

49.304–1 General.

(a) For partial terminations, the TCO must limit settlement to fee adjustment and reduced estimated cost. The TCO must adjust fee as provided in 49.304–2 and 49.305, unless—

(1) The terminated portion is clearly severable from the balance of the contract; and

(2) Performance of the contract is virtually complete, or when the remaining work involves only minor items, spare parts, or is not substantial.

(b) For these exceptions, follow 49.302 and 49.303.

49.304–2 Submission of settlement proposal (fee only).

For fee-only proposals the contractor must limit the settlement proposal to a proposed reduction in fee. The final settlement proposal must be submitted to the TCO within 90 days of termination, using the form prescribed in 49.602–1 or a certified letter. It must include proof supporting the fee amount.

49.304–3 Submission of vouchers.

When only adjusting the fee in partial terminations the contractor must continue to submit the SF 1034, Public Voucher for Purchases and Services Other than Personal, for reimbursable costs. The Government must not reimburse the contractor for costs of settlements with subcontractors without required approvals or ratifications.

49.305 Adjustment of fee.

49.305–1 General.

(a)(1) The TCO must determine the final fee based on contract terms, typically using percentage of completion.

(2) Important factors include—

(i) The extent and difficulty of the work performed by the contractor; and

(ii) Work performed in—

(A) Stopping performance;

(B) Settling terminated subcontracts; and

(C) Disposing of inventory.

(3) These costs must be compared with the total work required by the contract or the terminated portion.

(4) The contractor's adjusted fee must not include an allowance for fee in subcontractor effort included in subcontractor settlement proposals.

(b) Completion percentage is not only based on costs incurred ratio. The percentage might be higher or lower than the ratio of costs incurred, depending on the TCO's evaluation of other important factors.

49.305–2 Construction contracts.

(a) The percentage of completion basis includes all contractor effort, not just the actual construction work. It includes such factors as—

(1) Mobilization including organization;

(2) Use of finances;

(3) Ordering and receiving materials;

(4) Placing subcontracts;

(5) Creating shop drawings;

(6) Performing work in place by own personnel;

(7) Supervising subcontractors;

(8) Managing the job; and

(9) Closing down the project (demobilization).

(b) Calculate the fee adjustment as follows:

(1) Assign a weighted value to each factor based on importance and difficulty.

(2) The total weighted value should be easily divisible (*e.g.,* by 100) to determine percentages.

(3) Determine the percentage complete of each factor based on specific facts of each contract.

(4) Multiply the completion percentage by the importance value for each factor.

(5) Add these values for overall completion percentage.

(6) Apply this percentage to the total fee applicable to the terminated portion of the contract to calculate the equitable adjustment.

Subpart 49.4—Termination for Default

49.401 General.

(a) In a termination for default, the Government exercises its right to terminate a contract because the contractor failed or is expected to fail to perform its contractual obligations.

(b) If the contractor establishes, or it is otherwise determined that, the contractor was not in default, or the failure to perform was excusable (*i.e.,* beyond the contractor's control and without fault or negligence), then the default clauses prescribed at 49.503 provide that the termination will be treated as a termination for convenience. The parties' rights and obligations will be governed accordingly.

(c) The Government may exercise termination or cancellation rights beyond those in the contract clauses (for example, paragraph (h) of contract clause 52.249–8, Default (Fixed-Price Supply and Service)).

(d) For default terminations of Federal Supply Schedule orders, see GSA procedures for those contracts.

(e) Despite the provisions of this section, the contracting officer may reinstate a terminated contract by amending the termination notice if—

(1) The contractor provides written consent;

(2) The contracting officer makes a written determination that the supplies or services are still needed; and

(3) Reinstatement benefits the Government.

49.402 Termination of fixed-price contracts for default.

49.402–1 The Government's right.

Under contracts with the clause at 52.249–8, the Government has the right, subject to the notice requirements of the clause, to terminate the contract completely or partially for default if the contractor fails to—

(a) Deliver supplies or perform services within the time specified in the contract;

(b) Perform any other provision of the contract; or

(c) Make progress, and that failure puts contract performance at risk.

49.402–2 Effect of termination for default.

(a) Under a default termination, the Government—

(1) Is not responsible for the contractor's costs on undelivered work;

(2) Is entitled to repayment of advance and progress payments for that work; and

(3) May require the contractor to transfer title and deliver completed supplies and manufacturing materials.

(b) The contracting officer must not use the clause at 52.249–8 to acquire completed supplies or manufacturing materials unless the Government does not already have title under other contract provisions. The contracting officer should only acquire manufacturing materials for another contractor after considering any difficulties the other contractor might have using them.

(c) Subject to paragraph (d), the Government must pay the contractor the contract price for any completed supplies and the agreed amount for manufacturing materials acquired by the Government under the clause.

(d) To protect against overpayment when laborers and material suppliers might have liens against the completed supplies or materials, the contracting officer must take one or more of these measures before payment:

(1) Verify that payment bonds from the contractor adequately cover all claims or obtain similar bonds to cover outstanding liens;

(2) Require the contractor to provide statements from laborers and material suppliers giving up any lien rights they may have;

(3) Create an agreement among all parties that releases the Government from potential liability;

(4) Withhold appropriate amounts from payments when the above measures are inadequate;

(5) Take other suitable actions based on the situation and the contractor's financial condition.

(e) The contractor is responsible for any excess costs the Government incurs buying similar supplies and services and for any other damages, whether or not the Government buys replacement items.

49.402–3 Procedure for default.

(a) Before deciding on default termination, the Government must determine the appropriate action (*i.e.,* default, convenience, or no-cost cancellation) with contracting and technical personnel, as well as legal counsel, to ensure the action is appropriate.

(b) The administrative contracting officer must get prior approval from the contracting office before issuing a show cause notice or cure notice. This approval should be obtained quickly.

(c) When the contractor fails to deliver supplies or perform services within the specified time (Default clause paragraph (a)(1)(i)), no advance notice of termination is required. However, when practicable, the contracting officer should follow the show cause procedures in paragraph (f).

(d)(1) For failures covered under paragraph (a)(1)(ii), failing to make progress so as to endanger performance, or (a)(1)(iii), failing to meet a provision of the contract other than timely performance of the clause 52.249–8, such as not providing a required performance bond, the contracting officer must—

(i) Give the contractor written notice specifying the failure;

(ii) Allow 10 days (or longer if necessary) to cure the failure; and

(iii) After the time period expires, decide whether to terminate the contract or accept the resolution.

(2) If both conditions described in paragraph (d)(1) exist, the contracting officer may combine a cure notice and a show cause notice into a single document to avoid duplicative correspondence.

(e) A sample cure notice format appears in 49.607.

(f) Show cause notice procedures are as follows:

(1) If default termination seems appropriate, the contracting officer should, when practical, notify the contractor in writing—

(i) That the contracting officer is considering terminating the contract for default;

(ii) Call attention to the potential liabilities to the contractor if the contract is terminated for default;

(iii) Explain why the contracting officer intends to terminate the contract;

(iv) Give the contractor an opportunity to explain why termination should not occur;

(v) Explain that a failure to respond may be taken as an admission by the contractor that no valid explanation exists; and

(vi) If appropriate, invite the contractor to a conference to discuss the situation.

(2) A sample show cause notice appears in 49.607.

(g)(1) When default termination is likely, the contracting officer must notify the surety in writing. If the contractor is later terminated for default, the contracting officer must send the surety a copy of the default notice.

(2) If the surety requests it and the contractor and any assignees agree, arrangements can be made to send checks to the contractor through the surety. The contractor must submit a written request to the disbursing officer specifically directing this change in payment address.

(h) For small business contractors—

(1) The contracting officer must immediately send copies of any cure notice or show cause notice to the contracting office's small business specialist and Small Business Administration Area Office nearest the contractor;

(2) When possible, the contracting officer should consult with the small business specialist before proceeding with default termination.

(i) The contracting officer must consider these factors when deciding whether to terminate a contract for default:

(1) The contract terms and relevant laws and regulations.

(2) The specific failure and any explanations provided.

(3) Whether the supplies or services can be obtained from other sources.

(4) How urgently the items are needed and how long it would take to get them from other sources compared to the original contractor.

(5) How essential the contractor is to Government acquisition programs and how termination might affect their ability to supply other contracts.

(6) How termination might affect the contractor's ability to repay guaranteed loans, progress payments, or advance payments.

(7) Any other relevant facts and circumstances.

(j) After following procedures in paragraphs (a) through (i), if the contracting officer decides termination is proper, the contracting officer must issue a notice of termination stating—

(1) The contract number and date;

(2) What specific actions or failures constitute the default;

(3) That the contractor's right to proceed with the contract (or a specified portion) is terminated;

(4) That the Government may purchase similar supplies or services and charge any excess costs to the contractor;

(5) If the failure is determined not excusable, that the notice serves as this decision, and the contractor may appeal under the Disputes clause;

(6) That the Government reserves all other legal rights and remedies; and

(7) That this notice is a decision that the contractor is in default and has the right to appeal under the Disputes clause.

(k) The contracting officer must—

(1) Distribute the termination notice to all parties who received the original contract;

(2) Send a copy to the contractor's surety and ask if they want to arrange for completion of the work; and

(3) Tell the disbursing officer to stop payments under the terminated contract until further notice.

(l) For construction contracts, promptly after issuing the termination notice, the contracting officer must determine—

(1) How the work will be completed; and

(2) Whether materials, equipment, and plant that are on the site will be needed.

(m) If the contracting officer determines before issuing the termination notice that the failure was excusable, they must not terminate for default. If termination is still in the Government's interest, they may terminate for convenience.

(n) If the contracting officer cannot determine before issuing the notice whether the failure was excusable, they must—

(1) Make a written decision on this issue as soon as possible after issuing the notice;

(2) Deliver the decision promptly to the contractor; and

(3) Notify the contractor of their right to appeal under the Disputes clause.

49.402–4 Procedure in lieu of termination for default.

Instead of terminating for default, the contracting officer may take these alternative actions when they serve the Government's interests:

(a) Allow the contractor, surety, or guarantor to continue performance under a revised delivery schedule.

(b) Permit the contractor to continue performance through a subcontract or other business arrangement with an acceptable third party, as long as the Government's rights are adequately protected.

(c) Execute a no-cost termination settlement agreement using the formats in 49.603–6 and 49.603–7 when—

(1) The supplies or services are no longer needed; and

(2) The contractor is not liable for damages under 49.402–7.

49.402–5 Memorandum by the contracting officer.

When a contract is terminated for default or when an alternative procedure from 49.402–4 is used, the contracting officer must prepare a memorandum for the contract file explaining the reasons for the action.

49.402–6 Repurchase against contractor's account.

(a) The contracting officer should consider repurchase requirements as soon as practicable after issuing the termination notice when supplies or services are still needed. Repurchase planning must not delay issuance of the termination notice. Guidelines for repurchasing are as follows:

(1) The contracting officer must repurchase similar items against the contractor's account as soon as practical.

(2) The price must be reasonable considering quality and delivery requirements.

(3) The contracting officer may buy more than the undelivered quantity if needed.

(4) Extra cost can only be charged to the contractor for the undelivered quantity (including permitted variations).

(b) For repurchases limited to the undelivered quantity—

(1) The Default clause allows the contracting officer to use any terms and acquisition method;

(2) The contracting officer must maximize competition;

(3) The Default clause serves as the authority; and

(4) For quantities exceeding the undelivered amount, treat the entire purchase as a new acquisition.

(c) If the repurchase costs more than the terminated supplies or services, after completing the repurchase contract, the contracting officer must demand payment from the contractor for the excess amount. This calculation should account for changes in transportation costs, discounts, etc. If the contractor does not pay, follow the procedures in part 32 for collecting contract debts.

49.402–7 Other damages.

(a) If the contract is terminated for default or an alternative action is taken (see 49.402–4), the contracting officer must assess and demand any liquidated damages the Government is entitled to under the contract. Under the clause at 52.211–11, these damages are in addition to any excess repurchase costs.

(b) If the Government has suffered other measurable damages, including administrative costs, the contracting officer must, based on legal advice, take appropriate action as outlined in part 32 to assert the Government's demand for these damages.

49.402–8 Reporting information.

The contracting officer must follow agency procedures to report information about the termination for default notice, any withdrawal of the termination, and any conversion to a termination for convenience. This report must comply with requirements in 42.1103.

49.403 Termination of cost-reimbursement contracts for default.

(a) The right to terminate a cost-reimbursement contract for default comes from the contract clause at 52.249–6, Termination (Cost-reimbursement). The clause requires giving the contractor 10 days' notice before termination.

(b) Settling a cost-reimbursement contract terminated for default follows the same principles as termination for convenience (subparts 49.1 and 49.3), except—

(1) The costs of preparing the contractor's settlement proposal are not allowable (see paragraph (h)(3) of the clause); and

(2) The contractor receives reimbursement for allowable costs, with an appropriate reduction in the total fee (see paragraph (h)(4) of the clause).

(c) The contracting officer must use the procedures in 49.402 when appropriate for cost-reimbursement contracts. However, these contracts do not include provisions for recovering excess repurchase costs after termination (but see paragraph (g) of clause 52.246–3 regarding the contractor's failure to replace or correct defective supplies).

49.404 Surety-takeover agreements.

(a) These procedures apply mainly, but not exclusively, to fixed-price construction contracts terminated for default.

(b) Since the surety must pay for damages resulting from the contractor's default, the surety has certain rights in completing the contract and using undisbursed funds. The contracting officer must carefully consider the surety's proposals, evaluating how they might affect the Government's rights against the surety.

(c) The contracting officer should allow sureties to complete the contract unless—

(1) The people or companies proposed by the surety are not qualified or competent; or

(2) The proposal does not serve the Government's best interests.

(d) Multiple parties may claim the defaulting contractor's assets, including unpaid earnings. The surety may include a ''takeover'' agreement in its proposal to establish its rights to payment. The contracting officer may enter into a written agreement with the surety (but not before the termination date). Consider using a three-way agreement (''tripartite agreement'')

among the Government, surety, and defaulting contractor to resolve remaining rights, including claims to unpaid earnings.

(e) Any takeover agreement must require the surety to complete the contract and the Government to pay the surety's costs up to the unpaid contract price, subject to these conditions:

(1) Any unpaid earnings of the defaulting contractor may be used to pay Government claims against the contractor, except when those earnings are needed to pay the surety's actual completion costs and expenses (not including bond payments).

(2) The surety must meet contract requirements for liquidated damages for delays unless the delays qualify as excusable under the contract.

(3) If contract proceeds were assigned to a financing institution, the surety cannot receive payment from unpaid earnings without the assignee's written permission.

(4) The Government must not pay the surety more than it spent completing the work and meeting its payment bond obligations. Payments to the surety for its payment bond obligations require—

(i) Agreement among the Government, defaulting contractor, and surety;

(ii) A determination by the Comptroller General about who gets paid and how much; or

(iii) A court order from a court of competent jurisdiction.

49.405 Liquidation of liability.

The contract makes the contractor and surety liable for resulting damages. The contracting officer must use all retained percentages of progress payments and any progress payments due for completed work to offset the contractor's and surety's liability. If these amounts are not enough, the contracting officer must take steps to recover the additional amount from the contractor and surety.

Subpart 49.5—Contract Termination Clauses

49.501 General.

This subpart describes which contract termination clauses to use. This subpart does not apply to contracts that use the clause at 52.213–4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services). In appropriate cases, agencies may authorize the use of special purpose clauses, if consistent with this chapter.

49.502 Termination for convenience of the Government.

(a) *Fixed-price contracts that do not exceed the simplified acquisition threshold (short form)—*

(1) *General use.* Insert the clause at 52.249–1, Termination for Convenience of the Government (Fixed-Price) (Short Form), in solicitations and contracts when using a fixed-price contract and the contract amount does not exceed the simplified acquisition threshold, except if—

(i) The acquisition is for commercial products or commercial services;

(ii) The clause at 52.249–4, Termination for Convenience of the Government (Services) (Short Form) is more appropriate;

(iii) The contract is for research and development work with an educational or nonprofit institution on a no-profit basis;

(iv) The contract is for architect-engineer services; or

(v) One of the clauses prescribed or cited at 49.505(a) or (c) is more appropriate.

(2) *Dismantling and demolition.* If the contract is for dismantling, demolition, or removal of improvements, use the clause with its Alternate I.

(b) *Fixed-price contracts that exceed the simplified acquisition threshold—*

(1)(i) *General use.* Insert the clause at 52.249–2, Termination for Convenience of the Government (Fixed-Price), when a fixed-price contract is contemplated and the contract amount exceeds the simplified acquisition threshold.

(ii) *Exceptions.* Do not use this clause for contracts for the following:

(A) The acquisition of commercial products or commercial services.

(B) Dismantling and demolition.

(C) Research and development work with an educational or nonprofit institution on a no-profit basis.

(D) Architect-engineer services.

(E) If the clause at 52.249–4, Termination for Convenience of the Government (Services) (Short Form), is more appropriate (see 49.502(c)), or if one of the clauses prescribed or cited at 49.505(a) or (c) is appropriate.

(2) *Construction.* If the contract is for construction, use the clause with its Alternate I.

(i) *Partial payments.* If the contract is with an agency of the Government or with State, local or foreign governments or their agencies, and the contracting officer determines that requiring interest payments on excess partial payments is inappropriate, use the clause with its Alternate II. For construction contracts with these same organizations, use the clause with its Alternate III.

(ii) *Dismantling and demolition.* Insert the clause at 52.249–3, Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements) in solicitations and contracts for dismantling, demolition, or removal of improvements, when a fixed-price contract is contemplated and the contract amount exceeds the simplified acquisition threshold. If the contract is with an agency of the Government or with State, local, or foreign governments or their agencies, and if the contracting officer determines that the requirement to pay interest on excess partial payments is inappropriate, use the clause with its Alternate I.

(c) *Service contracts (short form).*

(1) Insert the clause at 52.249–4, Termination for Convenience of the Government (Services) (Short Form), in solicitations and contracts for services, other than commercial services, when all of these conditions are met:

(i) A fixed-price contract is contemplated (regardless of dollar value).

(ii) The contracting officer determines that because of the kind of services required, the successful offeror will not incur substantial charges in preparation for and in carrying out the contract.

(iii) If terminated for the Government's convenience, the contractor would limit termination settlement charges to services rendered before the termination date.

(2) This clause may be appropriate in contracts for services such as rental of unreserved parking space, or laundry and dry cleaning.

(d) *Research and development contracts.* Insert the clause at 52.249–5, Termination for the Convenience of the Government (Educational and Other Nonprofit Institutions), in solicitations and contracts when either a fixed-price or cost-reimbursement contract is contemplated, and the contract is for research and development work with an educational or nonprofit institution on a nonprofit or no-fee basis. Do not use this clause in solicitations and contracts for commercial products or commercial services.

(e) *Subcontracts—*

(1) *General use.* The prime contractor may find these clauses suitable for use in fixed-price subcontracts (except as noted in paragraph (e)(2) below): 52.249–1, Termination for Convenience of the Government (Fixed-Price) (Short Form), or 52.249–2, Termination for Convenience of the Government (Fixed-Price), as appropriate, provided the relationship between the contractor and subcontractor is clearly indicated. Delete conditions that do not apply (for example, paragraph (d) in 52.249–2.) Reduce the time periods for submitting

the subcontractor's termination settlement proposal to the prime contractor to 30 days (or another reasonable period consistent with the prime contractor's 90-day deadline), and the time for requesting an equitable price adjustment to 45 days.

(2) *Research and development.* The prime contractor may find the clause at 52.249–5, Termination for the Convenience of the Government (Educational and Other Nonprofit Institutions), suitable for use in subcontracts placed with educational or nonprofit institutions on a no-profit or no-fee basis; provided, that the relationship between the contractor and subcontractor is clearly indicated. Conditions that do not apply (*e.g.,* paragraph (h)) should be deleted, the period for submitting the subcontractor's termination settlement proposal should be reduced (*e.g.,* 30 days), the subcontract should be placed on a no-profit or no-fee basis, and the subcontract should incorporate or be negotiated on the basis of the cost principles in part 31.

49.503 Termination for convenience of the Government and default.

(a) *Cost-reimbursement contracts*—

(1) *General use.* Insert the clause at 52.249–6, Termination (Cost-Reimbursement), in solicitations and contracts if a cost-reimbursement contract is contemplated, except in research and development contracts with educational or nonprofit institutions that have no fee. Do not use this clause in solicitations and contracts for commercial products or commercial services.

(2) *Construction.* If the contract is for construction, insert the clause with its Alternate I.

(3) *Partial payments.* If the contract is with an agency of the U.S. Government or with State, local, or foreign governments or their agencies, and if the contracting officer determines that the requirement to pay interest on excess partial payments is inappropriate, insert the clause with its Alternate II. In such contracts for construction, insert the clause with its Alternate III.

(4) *Time-and-material and labor-hour contracts.* If the contract is a time-and-material or labor-hour contract, insert the clause with its Alternate IV. If the contract is with an agency of the U.S. Government or with State, local, or foreign governments or their agencies, and if the contracting officer determines that the requirement to pay interest on excess partial payments is inappropriate, insert the clause with its Alternate V.

(b) *Architect Engineer.* Insert the clause at 52.249–7, Termination (Fixed-Price Architect-Engineer), in solicitations and contracts for architect-engineer services, other than those for commercial products or commercial services, if a fixed-price contract is contemplated.

(c) *Subcontracts.* The prime contractor may use and customize the clause at 52.249–6, Termination (Cost-Reimbursement), suitable for use in cost-reimbursement subcontracts, as long as the relationship between the contractor and subcontractor is clearly indicated. The contractor should delete conditions that do not apply (for example, paragraphs (e), (j), and (n)). Reduce the time period for the subcontractor to submit their termination settlement proposal (for example, to 30 days).

49.504 Termination of fixed-price contracts for default.

(a) *Supplies and services.*

(1) *Supplies and services.* Insert the clause at 52.249–8, Default (Fixed-Price Supply and Service), in solicitations and contracts, other than those for commercial products or commercial services, if a fixed-price contract is contemplated, and the contract amount is expected to exceed the simplified acquisition threshold. The contracting officer may use the clause when the contract amount is at or below the simplified acquisition threshold, if appropriate (*e.g.,* if the acquisition involves items with a history of unsatisfactory quality).

(2) *Transportation.* If the contract is for transportation or transportation-related services, insert the clause with its Alternate I.

(b) *Research and development.* Insert the clause at 52.249–9, Default (Fixed-Price Research and Development), in solicitations and contracts for research and development if a fixed-price contract is contemplated, and the contract amount is expected to exceed the simplified acquisition threshold, except for contracts with educational or nonprofit institutions on a no-profit basis. The contracting officer may use the clause when the contract amount is at or below the simplified acquisition threshold, if appropriate. Do not use this clause in solicitations and contracts for commercial products or commercial services.

(c) *Construction and related work.*

(1) *Construction.* Insert the clause at 52.249–10, Default (Fixed-Price Construction), in solicitations and contracts for construction if a fixed price contract is contemplated, and the amount is expected to exceed the simplified acquisition threshold. The contracting officer may use the clause when the contract amount is at or below the simplified acquisition threshold, if appropriate (*e.g.,* if completion dates are essential.)

(2) *Dismantling and demolition.* If the contract is for dismantling, demolition, or removal of improvements, insert the clause with its Alternate I.

(3) *National emergencies.* If the contract is to be awarded during a period of national emergency, the contracting officer may use the clause—

(i) With its Alternate II when a fixed-price contract for construction is contemplated; or

(ii) With its Alternate III when a contract for dismantling, demolition, or removal of improvements is contemplated.

49.505 Other termination clauses.

(a) *Personal service contracts.* Insert the clause at 52.249–12, Termination (Personal Services), in solicitations and contracts for personal services, other than those for commercial products or commercial services.

(b) *Excusable delays.*

(1) Insert the clause at 52.249–14, Excusable Delays, in solicitations and contracts, other than those for commercial products or commercial services, when using—

(i) A cost reimbursement contract for supplies, services, construction, and research and development when a cost-reimbursement contract is contemplated; and

(ii) Time-and-material and labor-hour contracts.

(c) *Communication service contracts.* Agencies must prescribe and insert agency-specific clauses for canceling or terminating orders under communication service contracts with common carriers. See subpart 1.2, Agency Acquisition Regulations.

Subpart 49.6—Contract Termination Forms and Formats

49.601 Notice of termination for convenience.

49.601–1 Electronic notice.

The contracting officer may provide expedited notice of termination by electronic means that includes a requirement for the contractor to confirm receipt. If the contractor does not confirm receipt promptly, the contracting officer must resend the notice electronically and expedite the letter notice described in 49.601–2. If the contractor confirms receipt of the electronic notice, and the notice contains all information required in

49.601–2, the contracting officer does not need to send the letter notice.

(a) *Complete termination:* Use the following electronic notice when completely terminating a supply contract for convenience. This notice may be modified for other than supply contracts.

Date _____

XYZ Corporation New York, NY 12345

Contract No. _____ is completely terminated under clause _____, effective _____

[*insert* ''immediately, (*today's date*)'' or ''on _____ , 20 ____,'' or ''as soon as you have delivered, including prior deliveries, the following items:'' *(list)*]. Immediately stop all work, terminate subcontracts, and place no further orders except to the extent [*insert if applicable* ''necessary to complete items not terminated or''] that you or a subcontractor wish to retain and continue for your own account any work-in-process or other materials. Provide by electronic means similar instructions to all subcontractors and suppliers. Detailed instructions follow.

_____

(Contracting Officer)

(b) *Partial termination:* The following electronic notice is suggested for use if a supply contract is being partially terminated for convenience. If appropriately modified, the notice may be used for other than supply contracts.

Date _____

XYZ Corporation New York, NY 12345

Contract No. _____ is partially terminated under clause _____, effective _____

[*insert* ''immediately, (*today's date*)'' or ''on _____, 20____'']. Reduce items to be delivered as follows: [*insert instructions*]. Immediately stop all work, terminate subcontracts, and place no further orders except as necessary to perform the portion not terminated or that you or a subcontractor wish to retain and continue for your account any work-in-process or other materials. Provide by electronic means similar instructions to all subcontractors and suppliers. Detailed instructions follow.

_____

(Contracting Officer)

49.601–2 Letter notice.

The following letter notice of termination is suggested for use if a contract for supplies is being terminated for convenience. With appropriate modifications, it may be used in terminating contracts for other than supplies and in terminating subcontracts. This notice must be sent by certified mail, return receipt requested, or electronically, provided evidence of receipt is received by the contracting officer. If no prior electronic notice was issued, or if no confirmation of an electronic notice was received, use the alternate notice that follows this notice.

Notice of Termination to Prime Contractors

[*At the top of the notice, set out all special details relating to the particular termination; e.g., name and address of company, contract number of terminated contract, line items, etc.]*

(a) *Effective date of termination.* This confirms the Government's electronic notice to you dated _____, 20____, terminating _____

[*insert* ''completely'' *or* ''in part''] Contract No._____ (referred to as ''the contract'') for the Government's convenience under the clause entitled _____ [*insert title of appropriate termination clause*]. The termination is effective on the date and in the manner stated in the electronic notice.

(b) *Cessation of work and notification to immediate subcontractors.* You must take the following steps:

(1)(i) Stop all work, make no further shipments, and place no further orders relating to the contract, except for—

(A) The continued portion of the contract, if any;

(B) Work-in-process or other materials that you may wish to retain for your own account; or

(C) Work-in-process that the Contracting Officer authorizes you to continue—

(*1*) for safety precautions,

(*2*) to clear or avoid damage to equipment,

(*3*) to avoid immediate complete spoilage of work-in-process having a definite commercial value, or

(*4*) to prevent any other undue loss to the Government.

(ii) If you believe this authorization is necessary or advisable, immediately notify the Contracting Officer by telephone or personal conference and obtain instructions.

(2) Keep adequate records of your compliance with paragraph (b)(1) of this notice showing the—

(i) Date you received the Notice of Termination;

(ii) Effective date of the termination; and

(iii) Extent of completion of performance on the effective date.

(3) Furnish notice of termination to each immediate subcontractor and supplier that will be affected by this termination. In the notice—

(i) Specify your Government contract number;

(ii) State whether the contract has been terminated completely or partially;

(iii) Provide instructions to stop all work, make no further shipments, place no further orders, and terminate all subcontracts under the contract, subject to the exceptions in paragraph (b)(1) of this notice;

(iv) Provide instructions to submit any settlement proposal promptly; and

(v) Request that similar notices and instructions be given to its immediate subcontractors.

(4) Notify the Contracting Officer of all pending legal proceedings that are based on subcontracts or purchase orders under the contract, or in which a lien has been or may be placed against termination inventory to be reported to the Government. Also, promptly notify the Contracting Officer of any such proceedings that are filed after receipt of this Notice.

(5) Take any other action required by the Contracting Officer or under the Termination clause in the contract.

(c) *Termination inventory.*

(1) As instructed by the Contracting Officer, transfer title and deliver to the Government all termination inventory of the following types or classes, including subcontractor termination inventory that you have the right to take: [C*ontracting* O*fficer insert proper identification or* ''None''].

(2) To settle your proposal, it will be necessary to establish that all prime and subcontractor termination inventory has been properly accounted for. For detailed information, see part 45.

(d) *Settlements with subcontractors.* You remain liable to your subcontractors and suppliers for proposals arising because of the termination of their subcontracts or orders. You are requested to settle these settlement proposals as promptly as possible. For purposes of reimbursement by the Government, settlements will be governed by the provisions of part 49.

(e) *Completed end items.*

(1) Notify the Contracting Officer of the number of items completed under the contract and still on hand and arrange for their delivery or other disposal (see 49.205).

(2) Invoice acceptable completed end items under the contract in the usual way and do not include them in the settlement proposal.

(f) *Patents.* If required by the contract, promptly forward the following to the Contracting Officer:

(1) Disclosure of all inventions, discoveries, and patent applications made in the performance of the contract.

(2) Instruments of license or assignment on all inventions,

discoveries, and patent applications made in the performance of the contract.

(g) *Employees affected.*

(1) If this termination, together with other outstanding terminations, will necessitate a significant reduction in your work force, you are urged to—

(i) Promptly inform the local State Employment Service of your reduction-in-force schedule in numbers and occupations, so that the Service can take timely action in assisting displaced workers;

(ii) Give affected employees maximum practical advance notice of the employment reduction and inform them of the facilities and services available to them through the local State Employment Service offices;

(iii) Advise affected employees to file applications with the State Employment Service to qualify for unemployment insurance, if necessary;

(iv) Inform officials of local unions having agreements with you of the impending reduction-in-force; and

(v) Inform the local Chamber of Commerce and other appropriate organizations which are prepared to offer practical assistance in finding employment for displaced workers of the impending reduction-in-force.

(2) If practicable, urge subcontractors to take similar actions to those described in paragraph (g)(1) of this notice.

(h) *Administrative.* The contract administration office named in the contract will identify the Contracting Officer who will be in charge of the settlement of this termination and who will, upon request, provide the necessary settlement forms. Matters not covered by this notice should be brought to the attention of the undersigned.

(i) Please acknowledge receipt of this notice as provided below.

_____(Contracting Officer)

_____(Name of Office)

_____(Address)

Acknowledgment of Notice

The undersigned acknowledges receipt of a signed copy of this notice on _____, 20 _____. Two signed copies of this notice are returned.

_____(Name of Contractor)

By _____(Name)

_____(Title)

(End of notice)

Alternate notice. Substitute the following paragraph (a) for paragraph (a) of 49.601–2, Notice of Termination to Prime Contractors, if no prior electronic notice was issued, or if no confirmation of an electronic notice was received:

(a) *Effective date of termination.* You are notified that Contract No. _____ ____(referred to as ''the contract'') is terminated _____[*insert* ''completely'' *or* ''in part''] for the Government's convenience under the clause entitled _____[*insert title of appropriate termination clause*]. The termination is effective _____ [*insert either* ''immediately upon receipt of this Notice'' *or* ''on _____, 20,____ ____'' *or* ''as soon as you have delivered, including prior deliveries, the following items:'' (*list*)]. Reduce items to be delivered as follows: [*insert instructions*].

49.602 Forms for settlement of terminated contracts.

The standard forms listed below must be used for settling terminated prime contracts. The forms at 49.602–1 and 49.602–2 may also be used for settling terminated subcontracts.

49.602–1 Termination settlement proposal forms.

(a) Standard Form 1435, Settlement Proposal (Inventory Basis), must be used to submit settlement proposals resulting from the termination of fixed-price contracts if the proposals are computed on an inventory basis (see 49.206–2(a)).

(b) Standard Form 1436, Settlement Proposal (Total Cost Basis), must be used to submit settlement proposals resulting from the termination of fixed-price contracts if the proposals are computed on a total cost basis (see 49.206–2(b)).

(c) Standard Form 1437, Settlement Proposal for Cost- Reimbursement Type Contracts, must be used to submit settlement proposals resulting from the termination of cost-reimbursement contracts (see 49.302).

(d) Standard Form 1438, Settlement Proposal (Short Form), must be used to submit settlement proposals resulting from the termination of fixed-price contracts if the total proposal is less than $10,000 (see 49.206–1(d)).

49.602–2 Inventory forms.

Standard Form (SF) 1428, Inventory Disposal Schedule, and SF 1429, Inventory Disposal Schedule-Continuation Sheet, must be used to support settlement proposals submitted on the forms specified in 49.602–1(b) and (d).

49.602–3 Schedule of accounting information.

Standard Form 1439, Schedule of Accounting Information, must be filed in support of a settlement proposal unless the proposal is filed on Standard Form 1438, Settlement Proposal (Short Form) (see 49.206–1(e)).

49.602–4 Partial payments.

Standard Form 1440, Application for Partial Payment, must be used to apply for partial payments (see 49.112).

49.602–5 Settlement agreement.

Standard Form 30 (SF 30), Amendment of Solicitation/Modification of Contract, must be used to execute a settlement agreement (see 49.109).

49.603 Formats for termination for convenience settlement agreements.

The formats to be used for termination for convenience settlement agreements should be substantially as shown in this section (see 49.109). TCOs may, however, modify the contents of these agreements to conform with special termination clauses prescribed or authorized by their agencies (*e.g.,* see 49.501 and 49.505(c)).

49.603–1 Fixed price contracts-complete termination.

[*Insert the following in Block 14 of SF 30 for settlements of fixed-price contracts completely terminated.*]

(a) This supplemental agreement settles the settlement proposal resulting from the Notice of Termination dated __ _____.

(b) The parties agree to the following:

(1) The Contractor certifies that all contract termination inventory (including scrap) has been retained or acquired by the contractor, sold to third parties, returned to suppliers, delivered to or stored for the Government, or otherwise properly accounted for, and that all proceeds and retention credits have been used in arriving at this agreement.

(2) The Contractor certifies that each immediate subcontractor, whose settlement proposal is included in the proposal settled by this agreement, has furnished the contractor a certificate stating—

(i) That all subcontract termination inventory (including scrap) has been retained or acquired by the subcontractor, sold to third parties, returned to suppliers, delivered to or stored for the Government, or otherwise properly accounted for, and that all proceeds and retention credits were used in arriving at the settlement of the subcontract, and

(ii) That the subcontractor has received a similar certificate from each immediate subcontractor whose proposal was included in its proposal.

(3) The Contractor certifies that all items of termination inventory, the costs of which were used in arriving at the amount of this settlement or the settlement of any subcontract settlement

proposal included in this settlement, (i) are properly allocable to the terminated portion of the contract, (ii) do not exceed the reasonable quantitative requirements of the terminated portion of the contract, and (iii) do not include any items reasonably usable without loss to the Contractor on its other work. The Contractor further certifies that the Contracting Officer has been informed of any substantial change in the status of the items between the dates of the termination inventory schedules and the date of this agreement.

(4) The Contractor transfers, conveys, and assigns to the Government all the right, title, and interest, if any, that the Contractor has received, or is entitled to receive, in and to subcontract termination inventory not otherwise properly accounted for.

(5) The Contractor must, within 10 days after receipt of the payment specified in this agreement, pay to each of its immediate subcontractors (or their respective assignees) the amounts to which they are entitled, after deducting any prior payments and, if the Contractor so elects, any amounts due and payable to the Contractor by those subcontractors.

(6)(i) The Contractor has received $_____for work and services performed, or items delivered, under the completed portion of the contract. The Government confirms the right of the Contractor, subject to paragraph (7) of this agreement, to retain this sum and agrees that it constitutes a portion of the total amount to which the Contractor is entitled in complete and final settlement of the contract.

(ii) Further, the Government agrees to pay to the Contractor or its assignee, upon presentation of a proper invoice or voucher, the sum of $_____[*insert net amount of settlement*], arrived at by deducting from the sum of $_____[*for proposals on an inventory basis insert gross amount of settlement; for proposals on a total cost basis, insert gross amount of settlement less amount shown in paragraph (b)(6)(i) of this agreement*]—

(A) The amount of $_____for all unliquidated partial or progress payments previously made to the Contractor or its assignee and all unliquidated advance payments (with any interest),

(B) The amount of $_____for all applicable property disposal credits [*insert if appropriate,* ''and (C) the amount of $_____for all other amounts due the Government under this contract, except as provided in paragraph (7) of this agreement''].

(iii) The net settlement of $_____in paragraph (b)(6)(ii) of this agreement, together with sums previously paid, constitutes payment in full and complete settlement of the amount due the Contractor for the complete termination of the contract and all other demands and liabilities of the Contractor and the Government under the contract, except as provided in paragraph (b)(7) of this agreement.

(7) Regardless of any other provision of this agreement, the following rights and liabilities of the parties under the contract are reserved: [*The following list of reserved or excepted rights and liabilities is intended to cover those that should most frequently be reserved and that should be scrutinized at the time a settlement agreement is negotiated (see 49.109). The suggested language of the excepted items on the list may be varied at the discretion of the contracting officer. If accuracy or completeness can be achieved by referencing the number of a contract clause or provision covering the matter in question, then follow that method of enumerating reserved rights and liabilities. Omit any of the following that are not applicable and add any additional exceptions or reservations required.*

(i) All rights and liabilities, if any, of the parties, as to matters covered by any renegotiation authority.

(ii) All rights of the Government to take the benefit of agreements or judgments affecting royalties paid or payable in connection with the performance of the contract.

(iii) All rights and liabilities, if any, of the parties under those clauses inserted in the contract because of the requirements of Acts of Congress and Executive orders, including, without limitation, any applicable clauses relating to: labor law, contingent fees, domestic articles, and employment of aliens. [*If the contract contains clauses of this character inserted for reasons other than requirements of Acts of Congress or Executive orders, the suggested language should be appropriately modified.*]

(iv) All rights and liabilities of the parties arising under the contract and relating to reproduction rights, patent infringements, inventions, or applications for patents, including rights to assignments, invention reports, licenses, covenants of indemnity against patent risks, and bonds for patent indemnity obligations, together with all rights and liabilities under the bonds.

(v) All rights and liabilities of the parties, arising under the contract or otherwise, and concerning defects, guarantees, or warranties relating to any articles or component parts furnished to the Government by the Contractor under the contract or this agreement.

(vi) All rights and liabilities of the parties under the contract relating to any contract termination inventory stored for the Government.

(vii) All rights and liabilities of the parties under agreements relating to the future care and disposition by the Contractor of Government-owned property remaining in the Contractor's custody.

(viii) All rights and liabilities of the parties relating to Government property furnished to the Contractor for the performance of this contract.

(ix) All rights and liabilities of the parties under the contract relating to options (except options to continue or increase the work under the contract), covenants not to compete, and covenants of indemnity.

(x) All rights and liabilities, if any, of the parties under those clauses of the contract relating to price reductions for defective certified cost or pricing data.

(End of agreement)

49.603–2 Fixed-price contracts-partial termination.

[*Insert the following in Block 14 of SF 30 for settlements of fixed-price contracts partially terminated.*]

(a) This supplemental agreement settles the settlement proposal resulting from the Notice of Termination dated _____.

(b) The parties agree to the following:

(1) The terminated portion of the contract is as follows: [*specify the terminated portion clearly as to—*

(i) *Line item numbers,*

(ii) *Descriptions,*

(iii) *Quantity terminated,*

(iv) *Unit price of items,*

(v) *Total price of terminated items, and*

(vi) *Any other explanation necessary to avoid uncertainty or misunderstanding*].

(2) The Contractor certifies that all contract termination inventory (including scrap) has been retained or acquired by the Contractor, sold to third parties, returned to suppliers, delivered to or stored for the Government, or otherwise properly accounted for, and that all proceeds and retention credits have been used in arriving at this agreement.

(3) The Contractor certifies that each immediate subcontractor, whose settlement proposal is included in the proposal settled by this agreement, has furnished the Contractor a certificate stating—

(i) That all subcontract termination inventory (including scrap) has been retained or acquired by the subcontractor, sold to third parties, returned to suppliers, delivered to or

stored for the Government, or otherwise properly accounted for, and that all proceeds and retention credits were used in arriving at the settlement of the subcontract; and

(ii) That the subcontractor has received a similar certificate from each immediate subcontractor whose proposal was included in its proposal.

(4)(i) The Contractor certifies that all items of termination inventory, the costs of which were used in arriving at the amount of this settlement or the settlement of any subcontract settlement proposal included in this settlement—

(A) Are properly allocable to the terminated portion of the contract,

(B) Do not exceed the reasonable quantitative requirements of the terminated portion of the contract, and

(C) Do not include any items reasonably usable without loss to the Contractor on its other work.

(ii) The Contractor further certifies that the Contracting Officer has been informed of any substantial change in the status of the items between the dates of the termination inventory schedules and the date of this agreement.

(5) The Contractor transfers, conveys, and assigns to the Government all the right, title, and interest, if any, that the Contractor has received, or is entitled to receive, in and to subcontract termination inventory not otherwise properly accounted for.

(6) The Contractor must, within 10 days after receipt of the payment specified in this agreement, pay to each of its immediate subcontractors (or their respective assignees) the amounts to which they are entitled, after deducting any prior payments and, if the Contractor so elects, any amounts due and payable to the Contractor by those subcontractors.

(7)(i) The Government agrees to pay to the Contractor or its assignee, upon presentation of a proper invoice or voucher, the sum of $_____[*insert net amount of settlement*], arrived at by deducting from $_____[*insert gross amount of settlement*]—

(A) The amount of $_____for all unliquidated partial or progress payments previously made to the Contractor or its assignee and all unliquidated advance payments (with any interest) applicable to the terminated portion of the contract; and

(B) The amount of $_____for all applicable property disposal credits.

(ii) The net settlement of $_____in paragraph (b)(7)(i) of this agreement, together with sums previously paid, constitutes payment in full and complete settlement of the amount due the Contractor for the terminated portion of the contract, except as provided in paragraph (b)(8) of this agreement.

(iii) Upon payment of the net settlement of $_____, all obligations of the Contractor to perform further work or services or to make further deliveries under the terminated portion of the contract and all obligations of the Government to take further payments or carry out other undertakings concerning the terminated portion of the contract must cease; provided, that nothing in this agreement must impair or affect any covenants, terms, or conditions of the contract relating to the completed or continued portion of this contract.

(8) Regardless of any other provision of this agreement, the following rights and liabilities of the parties under the contract are reserved: [*The following list of reserved or excepted rights and liabilities is intended to cover those that should most frequently be reserved and that should be scrutinized at the time a settlement agreement is negotiated (see 49.109). The suggested language of the excepted items in the list may be varied at the discretion of the contracting officer. If accuracy or completeness can be achieved by referencing the number of a contract clause or provision covering the matter in question, then follow that method of enumerating reserved rights and liabilities. Omit any of the following that are not applicable and add any additional exceptions or reservations required.*]

(i) All rights and liabilities, if any, of the parties, as to matters covered by any renegotiation authority.

(ii) All rights of the Government to take the benefit of agreements or judgments affecting royalties paid or payable in connection with the performance of the contract.

(iii) All rights and liabilities, if any, of the parties under those clauses inserted in the contract because of the requirements of Acts of Congress and Executive orders, including, without limitation, any applicable clauses relating to: labor law, contingent fees, domestic articles, and employment of aliens. [*If the contract contains clauses of this character inserted for reasons other than requirements of Acts of Congress or Executive orders, the suggested language should be appropriately modified.*]

(iv) All rights and liabilities of the parties arising under the contract and relating to reproduction rights, patent infringements, inventions, or applications for patents, including rights to assignments, invention reports, licenses, covenants of indemnity against patent risks, and bonds for patent indemnity obligations, together with all rights and liabilities under the bonds.

(v) All rights and liabilities of the parties, arising under the contract or otherwise, and concerning defects, guarantees, or warranties relating to any articles or component parts furnished to the government by the Contractor under the contract or this agreement.

(vi) All rights and liabilities of the parties under the contract relating to any contract termination inventory stored for the Government.

(vii) All rights and liabilities, if any, of the parties under those clauses of the contract relating to price reductions for defective certified cost or pricing data.

(End of agreement)

49.603–3 Cost reimbursement contracts-complete termination, if settlement includes cost.

[*Insert the following in Block 14 of SF 30 for settlement of cost-reimbursement contracts that are completely terminated, if settlement includes costs.*]

(a) This supplemental agreement settles the settlement proposal resulting from the Notice of Termination dated _____.

(b) The parties agree to the following:

(1) The Contractor certifies that all contract termination inventory (including scrap) has been retained or acquired by the Contractor, sold to third parties, returned to suppliers, delivered to or stored for the Government, or otherwise properly accounted for, and that all proceeds and retention credits have been used in arriving at this agreement.

(2) The Contractor certifies that each immediate subcontractor, whose settlement proposal is included in the proposal settled by this agreement, has furnished the Contractor a certificate stating—

(i) That all subcontract termination inventory (including scrap) has been retained or acquired by the subcontractor, sold to third parties, returned to suppliers, delivered to or stored for the Government, or otherwise properly accounted for, and that all proceeds and retention credits were used in arriving at the settlement of the subcontract; and

(ii) That the subcontractor has received a similar certificate from each immediate subcontractor whose proposal was included in its proposal.

(3) The Contractor certifies that all items of termination inventory, the costs of which were used in arriving at the amount of this settlement or he settlement of any subcontract settlement proposal included in this settlement, (i) are properly allocable to the terminated portion of the contract, (ii) do not exceed the reasonable quantitative requirements of the terminated portion

of the contract, and (iii) do not include any items reasonably usable without loss to the Contractor on its other work. The Contractor further certifies that the Contracting Officer has been informed of any substantial change in the status of the items between the dates of the termination inventory schedules and the date of this agreement.

(4) The Contractor transfers, conveys, and assigns to the Government all the right, title and interest, if any, that the Contractor has received, or is entitled to receive, in and to subcontract termination inventory not otherwise properly accounted for.

(5) The Contractor must, within 10 days after receipt of the payment specified in this agreement, pay to each of its immediate subcontractors (or their respective assignees) the amounts to which they are entitled, after deducting any prior payments and, if the Contractor so elects, any amounts due and payable to the Contractor by those subcontractors.

(6)(i) The Contractor has received $_____for work and services performed, or articles delivered, under the contract before the effective date of termination. The Government confirms the right of the Contractor, subject to paragraph (b)(7) of this agreement, to retain this sum and agrees that it constitutes a portion of the total amount to which the Contractor is entitled in complete and final settlement of the contract.

(ii) Further, the Government agrees to pay to the Contractor or its assignee, upon presentation of a proper invoice or voucher, the sum of $_____[*insert net amount of settlement*], arrived at by deducting from the sum of $_____ [*insert gross amount of settlement less amount shown in paragraph (b)(6)(i) of this agreement*]—

(A) The amount of $_____for all unliquidated partial or progress payments previously made to the Contractor or its assignee and all unliquidated advance payments (with any interest),

(B) The amount of $_____for all applicable property disposal credits [*insert if appropriate,* ''and (C) the amount of $_____for all other amounts due the Government under this contract, except as provided in paragraph (b)(7) of this agreement.'']

(iii) The net settlement of $_____in paragraph (b)(6)(ii) of this agreement, together with sums previously paid, constitutes payment in full and complete settlement of the amount due the Contractor for the complete termination of the contract and of all other demands and liabilities of the Contractor and the Government under the contract, except as provided in paragraph (b)(7) in this agreement.

(7) Regardless of any other provision of this agreement, the following rights and liabilities of the parties under the contract are reserved: [*The following list of reserved or excepted rights and liabilities is intended to cover those that should most frequently be reserved and that should be scrutinized at the time a settlement agreement is negotiated (see 49.109). The suggested language of the excepted items on the list may be varied at the discretion of the contracting officer. If accuracy or completeness can be achieved by referencing the number of a contract clause or provision covering the matter in question, then follow that method of enumerating reserved rights and liabilities. Omit any of the following that are not applicable and add any additional exceptions or reservations required.*]

(i) All rights and liabilities, if any, of the parties, as to matters covered by any renegotiation authority.

(ii) All rights of the Government to take the benefit of agreements or judgments affecting royalties paid or payable in connection with the performance of the contract.

(iii) All rights and liabilities, if any, of the parties under those clauses inserted in the contract because of the requirements of Acts of Congress and Executive orders, including, without limitation, any applicable clauses relating to: labor law, contingent fees, domestic articles, and employment of aliens. [*If the contract contains clauses of this character inserted for reasons other than requirements of Acts of Congress or Executive orders, the suggested language should be appropriately modified.*]

(iv) All rights and liabilities of the parties arising under the contract and relating to reproduction rights, patent infringements, inventions, or applications for patents, including rights to assignments, invention reports, licenses, covenants of indemnity against patent risks, and bonds for patent indemnity obligations, together with all rights and liabilities under the bonds.

(v) All rights and liabilities of the parties, arising under the contract or otherwise, and concerning defects, guarantees, or warranties relating to any articles or component parts furnished to the Government by the Contractor under the contract or this agreement.

(vi) All rights and liabilities of the parties under the contract relating to any contract termination inventory stored for the Government.

(vii) All rights and liabilities of the parties under agreements relating to the future care and disposition by the Contractor of Government-owned property remaining in the Contractor's custody.

(viii) All rights and liabilities of the parties relating to Government property furnished to the Contractor for the performance of this contract.

(ix) All rights and liabilities of the parties under the contract relating to options (except options to continue or increase the work under the contract), covenants not to compete, and covenants of indemnity.

(x) Unresolved demands or assertions by the Contractor against the Government for costs under Government Accountability Office exceptions or other costs of the same nature that are excluded from the settlement without prejudice to the rights of either party, as follows: [*Insert amount and describe charges not waived.*]

(xi) Claims by the Contractor against the Government, when the Contractor's rights of reimbursement are disputed, that are excluded without prejudice to the rights of either party are as follows: [*Insert the amounts and describe the claims on which the Contracting Officer has made findings and has disallowed and on which the Contractor has taken, or intends to take, timely appeal.*]

(xii) Unresolved demands or assertions by the Contractor against the Government that are unknown in amount and involve costs alleged to be reimbursable under the contract are as follows: [*Insert the estimated amounts and describe the charges.*]

(xiii) Unknown amounts alleged by the Contractor against the Government, based upon responsibility of the Contractor to third parties that involve costs reimbursable under the contract.

(xiv) Debts due the Government by the Contractor that are based on refunds, rebates, credits, or other amounts not now known to the Government, with interest, now due or that may become due the Contractor from third parties, if the amounts arise out of transactions for which reimbursement has been made to the Contractor under the contract. The Contractor must pay to the Government, within 30 days after receipt, any of these amounts that become due from any third party or any other source. Interest at the rate established by the Secretary of the Treasury under 41 U.S.C. 7109 must accrue and must be paid to the Government on any amounts that remain unpaid after the 30-day period.

(xv) All rights and liabilities, if any, of the parties under those clauses of the contract relating to price reductions for defective certified cost or pricing data.

(End of agreement)

49.603–4 Cost-reimbursement contracts-complete termination, with settlement limited to fee.

[*Insert the following in Block 14 of SF 30 for settlement of cost-reimbursement contracts that are completely terminated, if settlement is limited to fee.*]

(a) This supplemental agreement settles the amount of fee due under the contract, terminated in its entirety by Notice of Termination dated _____.

(b) The parties agree to the following:

(1) The Contractor has received $_____on account of its fee under the contract before the effective date of termination.

(2) The Government agrees to pay to the Contractor or its assignee, upon presentation of a proper invoice or voucher, $_____[*insert net amount to be paid on account of fee*]. This sum, with sums previously paid, constitutes payment in full and complete settlement of the amount due the Contractor on account of its fee under the contract.

(3) The Contractor's allowable costs under the contract will be paid under the terms and conditions of the contract and parts 31 and 49 of the Federal Acquisition Regulation. [*Insert paragraph (b)(3) of this agreement only if there are costs to be vouchered out (see 49.302) or if there are costs to be covered later by a separate settlement agreement.*]

(4) Regardless of any other provision of this agreement, the following rights and liabilities of the parties under the contract are reserved: [*The following list of reserved or excepted rights and liabilities is intended to cover those that should most frequently be reserved and that should be scrutinized at the time a settlement agreement is negotiated (see 49.109). The suggested language of the excepted items on the list may be varied at the discretion of the contracting officer. If accuracy or completeness can be achieved by referencing the number of a contract clause or provision covering the matter in question, then follow that method of enumerating reserved rights and liabilities. Omit any of the following that are not applicable and add any additional exceptions or reservations required.*]

(i) All rights and liabilities, if any, of the parties, as to matters covered by any renegotiation authority.

(ii) All rights and liabilities, if any, of the parties under those clauses inserted in the contract because of the requirements of Acts of Congress and Executive orders, including, without limitation, any applicable clauses relating to: labor law, contingent fees, domestic articles, and employment of aliens. [*If the contract contains clauses of this character inserted for reasons other than requirements of Acts of Congress or Executive orders, the suggested language should be appropriately modified.*]

(iii) All rights and liabilities of the parties arising under the contract and relating to reproduction rights, patent infringements, inventions, or applications for patents, including rights to assignments, invention reports, licenses, covenants of indemnity against patent risks, and bonds for patent indemnity obligations, together with all rights and liabilities under the bonds.

(iv) All rights and liabilities of the parties, arising under the contract or otherwise, and concerning defects, guarantees, or warranties relating to any articles or component parts furnished to the Government by the Contractor under the contract or this agreement.

(v) All rights and liabilities of the parties under agreements relating to the future care and disposition by the Contractor of Government-owned property remaining in the Contractor's custody.

(vi) All rights and liabilities of the parties relating to Government property furnished to, or acquired by, the Contractor for the performance of the contract.

(vii) All rights and liabilities of the parties under the contract relating to options (except options to continue or increase the work under the contract), covenants not to compete, and covenants of indemnity.

(viii) All rights and liabilities, if any, of the parties under those clauses of the contract relating to price reductions for defective certified cost or pricing data.

(End of agreement)

49.603–5 Cost-reimbursement contracts-partial termination.

[*Insert the following in Block 14 of SF 30, Amendment of Solicitation/Modification of Contract, for settlement agreements for cost-reimbursement contracts as a result of partial termination.*]

(a) This supplemental agreement settles the termination settlement proposal resulting from the Notice of Termination dated _____.

(b) The parties agree as follows:

(1) The contract is amended by deleting the terminated portion as follows: [*specify the terminated portion clearly as to—*

(i) *Line item numbers,*

(ii) *Descriptions,*

(iii) *Quantity terminated,*

(iv) *Unit and total price of terminated items, and*

(v) *Any other explanation necessary to avoid uncertainty or misunderstanding*].

(2) The fee stated in the contract is decreased by $_____, from $_____ to $_____[*Insert, if appropriate,* '' (3) The estimated cost of the contract is decreased by $_____, from $_____ to $_____'']].

(c) The Contractor's allowable costs and earned fee, if any, for the terminated portion of the contract will continue to be reimbursed on SF 1034, Public Voucher for Purchase and Services Other Than Personal, under the applicable provisions of the contract and part 31 of the Federal Acquisition Regulation.

(End of agreement)

49.603–6 No-cost settlement agreement-complete termination.

[*Insert the following in Block 14 of SF 30 if a no-cost settlement agreement, under a complete termination, is to be executed.*]

(a) This supplemental agreement [*insert* ''modifies the contract to reflect a no-cost settlement agreement with respect to the Notice of Termination dated _____'' *or, if not previously terminated,* ''terminates the contract in its entirety'']].

(b) The parties agree as follows:

The Contractor unconditionally waives any charges against the Government because of the termination of the contract and, except as set forth below, releases it from all obligations under the contract or due to its termination. The Government agrees that all obligations under the contract are concluded, except as follows: [*List reserved or excepted rights and liabilities. See 49.109–2 and 49.603–1(b)(7).*]

(End of agreement)

49.603–7 No-cost settlement agreement-partial termination.

[*Insert the following in Block 14 of SF 30 if a no-cost settlement agreement, under partial termination, is to be executed.*]

(a) This supplemental agreement modifies the contract to reflect a no-cost settlement agreement with respect to the Notice of Termination dated _____.

(b) The parties agree as follows:

(1) The terminated portion of the contract is as follows: [*Specify—*

(i) *Line item numbers,*

(ii) *Descriptions,*

(iii) *Quantity terminated,*

(iv) *Unit and total price of terminated items, and*

(v) *Any other explanation necessary to avoid uncertainty or misunderstanding.*]

(2) The Contractor unconditionally waives any charges against the Government arising under the

terminated portion of the contract or by reason of its termination, including, without limitation, all obligations of the Government to make further payments or to carry out any further undertakings under the terminated portion of the contract. The Government acknowledges that the Contractor has no obligation to perform further work or services or to make further deliveries under the terminated portion of the contract. Nothing in this paragraph affects any other covenants, terms, or conditions of the contract. Under the terminated portion of the contract, the following rights and liabilities of the parties are reserved: [*List reserved or excepted rights and liabilities. See 49.109–2 and 49.603–1(b)(7).*]

(End of agreement)

49.603–8 Fixed-price contracts-settlements with subcontractors only.

[*Insert the following in Block 14 of SF 30 for settlements of fixed-price contracts covering only settlements with subcontractors.*]

(a) This agreement settles that portion of the settlement proposal of the contractor that is based upon termination of the following subcontracts entered into in performing this contract: [*Insert a list of the terminated subcontracts included in this settlement.*]

(b) The parties agree to the following:

(1) The Contractor certifies that each immediate subcontractor, whose settlement proposal is included in the proposal settled by the agreement, has furnished the Contractor a certificate stating—

(i) That all subcontract termination inventory (including scrap) has been retained or acquired by the subcontractor, sold to third parties, returned to suppliers, delivered to or stored for the Government, or otherwise properly accounted for, and that all proceeds and retention credits were used in arriving at the settlement of the subcontract; and

(ii) That the subcontractor has received a similar certificate from each immediate subcontractor whose proposal was included in its proposal.

(2)(i) The Contractor certifies that all items of termination inventory, the costs of which were used in arriving at the amount of this settlement or the settlement of any subcontract settlement proposal included in this settlement—

(A) Are properly allocable to the terminated portion of the contract;

(B) Do not exceed the reasonable quantitative requirements of the terminated portion of the contract; and

(C) Do not include any items reasonably usable without loss to the Contractor on its other work.

(ii) The Contractor further certifies that the Contracting Officer has been informed of any substantial change in the status of the items between the dates of the termination inventory schedules and the date of this agreement.

(3) The Contractor transfers, conveys, and assigns to the Government all the right, title, and interest, if any, that the Contractor has received or is entitled to receive, in and to subcontract termination inventory not otherwise properly accounted for.

(4) The Contractor must, within 10 days after receipt of the payment specified in this agreement, pay to each of its immediate subcontractors (or their respective assignees) the amounts to which they are entitled, after deducting any prior payments and, if the Contractor so elects, any amounts due and payable to the Contractor by those subcontractors.

(5) The Government agrees to pay the Contractor or its assignee, upon presentation of a proper invoice or voucher, $ _____[*insert net amount of settlement*], which, together with the amount of $ _____previously paid the Contractor as partial, progress, or advance payments, constitutes payment in full and complete settlement, except as provided in paragraph (b)(6) of this agreement, of the amount due the Contractor for that portion of its settlement proposal that is based upon termination of the subcontracts listed above.

(6) Regardless of any other provision of this agreement, the following rights and liabilities of the parties under the contract are reserved: [*List reserved or excepted rights and liabilities. See 49.109–2 and 49.603–1(b)(7).*]

(End of agreement)

49.603–9 Settlement of reservations.

[*Insert the following in Block 14 of SF 30 for settlement of reservations.*]

(a) Supplemental Agreement No. dated_____, was executed to reflect the settlement of the termination of this contract. The supplemental agreement excepted from the settlement certain items described in the agreement including the items described in paragraph (b) of this agreement. This supplemental agreement settles those items.

(b) The parties agree to the following:

(1) The Government agrees to pay the contractor $_____for the following reserved or excepted items: * [*List items.*]

(2) The Contractor releases and forever discharges the Government from all liability and from all existing and future claims and demands that it may have under this contract, insofar as it pertains to the contract, for the items described in paragraph (b)(1) of this agreement. *

* When payment is due the Government, reverse the words ''Government'' and ''contractor'' in paragraphs (b)(1) and (b)(2).

(End of agreement)

49.604 Release of excess funds under terminated contracts.

The following format must be used to recommend the release of excess funds under terminated contracts, except if the contracting office retains responsibility for settlement of the termination—

From: Termination Contracting Officer _____[address]

To: Contracting office _____ [address]

Subj: Terminated Contract No. _____ __[Contractor]

Refs:

(a) [*Cite termination notice and effective date.*]

(b) [*Cite prior letters releasing excess funds, if any.*]

(1) Referenced termination notice, __ _____[*insert* ''completely'' *or* ''partially''] terminated contract _____ __.

(2) Based on the best information available, it is estimated that the gross settlement cost will be $_____The amount available for release as excess to the contract is $_____. Any payments previously made to the Contractor for terminated items have been considered in arriving at the above amounts.

[*If prior letters recommending release of excess funds are cited, use the following as paragraph 2:*

The estimated settlement costs previously reported by reference (b) in the amount of $_____are revised. On the best evidence now available, it is estimated that the settlement costs will be $_____The additional amount available for release is $_____.]

(3) The related appropriations and amounts involved are:

Appropriations	Allocated amounts
_____	_____.
_____	_____.

Copies to: Paying Office; Accounting and Finance Office; Other.

49.605 Request to settle subcontractor settlement proposals.

Contractors requesting authority to settle subcontractor settlement proposals must furnish applicable information from the list below and any additional information required by the contracting officer—

(a) Name of contractor and address of principal office;

(b) Name and location of divisions of the applicant's plant for which authorization is requested;

(c) An explanation of the necessity and justification for the authorization requested;

(d) A full description of the applicant's organization for handling terminations, including the names of the officials in charge of processing and settling proposals;

(e) The number and dollar amount (estimated if necessary) of uncompleted contracts with Government agencies and the percentage applicable to each agency;

(f) The number and dollar amount (estimated if necessary) of uncompleted subcontracts under Government contracts and the percentage applicable to each agency;

(g) The extent of the applicant's experience in termination matters, including the handling of proposals of subcontractors;

(h) The approximate amount and general nature of terminations of the applicant currently in process;

(i) A statement that no other application has been made for any division of the applicant's plant covered by the application or, if one has been made, a full statement of the facts;

(j) The limit of authorization requested.

49.606 Granting subcontract settlement authorization.

Contracting officers must use the following format when granting subcontract settlement authorization—

Letter of Authorization

(a) Your request of _____(date) is approved, and you are authorized, subject to the limitations of subsection 49.109–4 and those stated below, to settle, without further approval of the Government, all subcontracts and purchase orders terminated by you as a result of a Government contract being terminated or modified—

(1) For the convenience of the Government; or

(2) Under any other circumstances that may require the Government to bear the cost of their settlement.

(b) This authorization does not extend to the disposition of Government-furnished material or articles completed but undelivered under the subcontract or purchase order, as these require screening and approval of disposal actions by the Government, except that allocable completed articles may be disposed of without Government approval or screening if the total amount (at subcontract price) when added to the amount of settlement (as computed below) does not exceed $_____[*insert limit of authorization being granted*].

(c) This authorization is subject to the following conditions and requirements—

(1) The amount of the subcontract termination settlement does not exceed $_____[*insert limit of authorization being granted*], computed as follows:

(i) Do not deduct advance or partial payments or credits for retention or other disposal of termination inventory allocated to the settlement proposal.

(ii) Deduct amounts payable for completed articles or work at the contract price or for the settlement of termination proposals of subcontractors (except those settlements that have not been approved by the Government).

(2) Any termination inventory involved has been disposed of under subsection 49.108–4, except that screening and Government approval of scrap and salvage determinations are not required.

(3) The Contracting Officer may incorporate into each Notice of Termination specific instructions about the disposition of specific items of termination inventory, or the Contracting Officer may, at any time before final settlement, issue specific instructions. These instructions will not affect any disposal action taken by you or your subcontractors before their receipt.

(4) The settlements made by you with your subcontractors and suppliers under this authorization, including sales, retention, or other dispositions of property involved in making these settlements, are reimbursable under part 49 and the Termination clause of the contract, and do not require approval of the Contracting Officer.

(5) Any number of separate settlements of $_____[*insert limit of authorization granted*] or less may be made with a single subcontractor. Settlement proposals that would normally be included in a single proposal; *e.g.,* those based on a series of separate orders for the same item under one contract, should be consolidated whenever possible and must not be divided to bring them within the authorization.

(6) This authorization does not apply if a subcontractor or supplier is affiliated with you. For this purpose, you should consider a contractor to be affiliated with you if you are under common control or if there is any common interest between you by reason of stock ownership, or otherwise, that is sufficient to create a reasonable doubt that the bargaining between you is completely at arm's length.

(7) A representative of this office will, from time to time, review the methods used in negotiating settlements with your subcontractors and will make a selective examination of the settlements made by you. If the review indicates that you are not adequately protecting the Government's interest, this delegation will be revoked.

(End of letter)

49.607 Delinquency notices.

The formats of the delinquency notices in this section may be used to satisfy the requirements of 49.402–3. All notices will be sent with proof of delivery requested. (See part 42 for stop-work orders.)

(a) *Cure notice.* If a contract is to be terminated for default before the delivery date, a ''Cure Notice'' is required by the Default clause. Before using this notice, it must be ascertained that an amount of time equal to or greater than the period of ''cure'' remains in the contract delivery schedule or any extension to it. If the time remaining in the contract delivery schedule is not sufficient to permit a realistic ''cure'' period of 10 days or more, the ''Cure Notice'' should not be issued. The ''Cure Notice'' may be in the following format:

Cure Notice

You are notified that the Government considers your _____[*specify the contractor's failure or failures*] a condition that is endangering performance of the contract. Therefore, unless this condition is cured within 10 days after receipt of this notice [*or insert any longer time that the Contracting Officer may consider reasonably necessary*], the Government may terminate for default under the terms and conditions of the _____ [*insert clause title*] clause of this contract.

(End of notice)

(b) *Show cause notice.* If the time remaining in the contract delivery schedule is not sufficient to permit a realistic ''cure'' period of 10 days or more, the following ''Show Cause Notice'' may be used. It should be sent immediately upon expiration of the delivery period.

Show Cause Notice

Since you have failed to _____ [*insert* ''perform Contract No. ____ within the time required by its terms,'' *or* ''cure the conditions endangering performance under Contract No. ____as described to you in the Government's letter of _____(date)''], the

Government is considering terminating the contract under the provisions for default of this contract. Pending a final decision in this matter, it will be necessary to determine whether your failure to perform arose from causes beyond your control and without fault or negligence on your part. Accordingly, you are given the opportunity to present, in writing, any facts bearing on the question to _____[*insert the name and complete address of the contracting officer*], within 10 days after receipt of this notice. Your failure to present any excuses within this time may be considered as an admission that none exist. Your attention is invited to the respective rights of the Contractor and the Government and the liabilities that may be invoked if a decision is made to terminate for default.

Any assistance given to you on this contract or any acceptance by the Government of delinquent goods or services will be solely for the purpose of mitigating damages, and it is not the intention of the Government to condone any delinquency or to waive any rights the Government has under the contract.

(End of notice)

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 2. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

■ 3. Revise sections 52.203–2 and 52.203–3 to read as follows:

52.203–2 Certificate of Independent Price Determination.

As prescribed in 3.103–1, insert the following provision. If the solicitation is a Request for Quotations, the terms ''Quotation'' and ''Quoter'' may be substituted for ''Offer'' and ''Offeror.''

Certificate of Independent Price Determination (DATE)

(a) The offeror certifies that—

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to—

(i) Those prices;

(ii) The intention to submit an offer; or

(iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory—

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; or

(2)(i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision _____[*insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];*

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) of this provision have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision.

(c) If the offeror deletes or modifies subparagraph (a)(2) above, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

(End of provision)

52.203–3 Gratuities.

As prescribed in 3.202, insert the following clause:

Gratuities (DATE)

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative—

(1) Offered or gave a gratuity (*e.g.,* an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) of this clause, the Government is entitled—

(1) To pursue the same remedies as in a breach of the contract; and

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This paragraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause must not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

■ 4. Revise sections 52.203–5 through 52.203–8 to read as follows:

52.203–5 Covenant Against Contingent Fees.

As prescribed in 3.404, insert the following clause:

Covenant Against Contingent Fees (DATE)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government has the right to annul this contract without liability or, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(b) *Bona fide agency,* as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

Bona fide employee, as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

Contingent fee, as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

Improper influence, as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

(End of clause)

52.203–6 Restrictions on Subcontractor Sales to the Government.

As prescribed in 3.503–2, insert the following clause:

Restrictions on Subcontractor Sales to the Government (DATE)

(a) *Prohibition.* Except as provided in (b) of this clause, the Contractor must not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

(b) *Rights.* The prohibition in paragraph (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation. For acquisitions of commercial products or commercial services, the prohibition in paragraph (a) applies only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being treated differently from any other prospective purchaser for the sale of the commercial product(s) and commercial service(s).

(c) *Subcontracts.* The Contractor must incorporate the substance of this clause, including this paragraph (c), in subcontracts at any tier under this contract, if the value of the subcontract exceeds the simplified acquisition threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award. Do not include this clause in subcontracts for commercial products or commercial services.

(End of clause)

Alternate I (DATE). As prescribed in 3.503–2, substitute the following paragraph in place of paragraph (b) of the basic clause:

(b) *Rights.* The prohibition in (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation.

52.203–7 Anti-Kickback Procedures.

As prescribed in 3.502–3, insert the following clause:

Anti-Kickback Procedures (DATE)

(a) *Definitions.*

Kickback, as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

Person, as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

Prime contract, as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

Prime Contractor, as used in this clause, means a person who has entered into a prime contract with the United States.

Prime Contractor employee, as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

Subcontract, as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

Subcontractor, as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

Subcontractor employee, as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) *Prohibition.* 41 U.S.C. chapter 87, Kickbacks, prohibits any person from—

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

(c) *Procedures.*

(1) The Contractor must have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor must promptly report in writing the possible violation. Such reports must be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Attorney General.

(3) The Contractor must cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order the monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor must notify the Contracting Officer when the monies are withheld.

(d) *Subcontracts.* The Contractor must include the substance of this clause, including this paragraph (d) but excepting paragraph (c)(1) of this clause, in all subcontracts at any tier under this contract, if the value of the subcontract exceeds the threshold specified in Federal Acquisition Regulation 3.502–2(i) on the date of subcontract award. Do not include this clause in subcontracts for commercial products or commercial services.

(End of clause)

52.203–8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity.

As prescribed in 3.104–9(a), insert the following clause:

Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (DATE)

(a) If the Government receives information that a contractor or a person

has violated 41 U.S.C. 2102–2104, Restrictions on Obtaining and Disclosing Certain Information, the Government may—

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

(2) Rescind the contract with respect to which—

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct violates 41 U.S.C. 2102 for the purpose of either—

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct punishable under 41 U.S.C. 2105(a).

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) The rights and remedies of the Government specified herein are not exclusive and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

(End of clause)

■ 5. Revise sections 52.203–10 through 52.203–14 to read as follows:

52.203–10 Price or Fee Adjustment for Illegal or Improper Activity.

As prescribed in 3.104–9(b), insert the following clause:

Price or Fee Adjustment for Illegal or Improper Activity (DATE)

(a) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or designee determines that there was a violation of 41 U.S.C. 2102 or 2103, as implemented in section 3.104 of the Federal Acquisition Regulation.

(b) The price or fee reduction referred to in paragraph (a) of this clause must be—

(1) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award;

(2) For cost-plus-incentive-fee contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or ''fee floor'' specified in the contract;

(3) For cost-plus-award-fee contracts—

(i) The base fee established in the contract at the time of contract award;

(ii) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the Contractor for each award fee evaluation period or at each award fee determination point.

(4) For fixed-price-incentive contracts, the Government may—

(i) Reduce the contract target price and contract target profit both by an amount equal to the initial target profit specified in the contract at the time of contract award; or

(ii) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the Contracting Officer may defer such adjustment until establishment of the total final price of the contract. The total final price established in accordance with the incentive price revision provisions of the contract must be reduced by an amount equal to the initial target profit specified in the contract at the time of contract award and such reduced price must be the total final contract price.

(5) For firm-fixed-price contracts, by 10 percent of the initial contract price or a profit amount determined by the Contracting Officer from records or documents in existence prior to the date of the contract award.

(c) The Government may, at its election, reduce a prime contractor's price or fee in accordance with the procedures of paragraph (b) of this clause for violations of the statute by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.

(d) In addition to the remedies in paragraphs (a) and (c) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

52.203–11 Certification and Disclosure Regarding Payments To Influence Certain Federal Transactions.

As prescribed in 3.808(a), insert the following provision:

Certification and Disclosure Regarding Payments To Influence Certain Federal Transactions (DATE)

(a) *Definitions.* As used in this provision—''Lobbying contact'' has the meaning provided at 2 U.S.C. 1602(8). The terms ''agency,'' ''influencing or attempting to influence,'' ''officer or employee of an agency,'' ''person,'' ''reasonable compensation,'' and ''regularly employed'' are defined in the FAR clause of this solicitation entitled ''Limitation on Payments to Influence Certain Federal Transactions'' (52.203–12).

(b) *Prohibition.* The prohibition and exceptions contained in the FAR clause of this solicitation entitled ''Limitation on Payments to Influence Certain Federal Transactions'' (52.203–12) are hereby incorporated by reference in this provision.

(c) *Certification.* The offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.

(d) *Disclosure.* If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror must complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(e) *Penalties.* Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, is subject to civil penalties as provided in 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(End of provision)

52.203–12 Limitation on Payments To Influence Certain Federal Transactions.

As prescribed in 3.808(b), insert the following clause:

Limitation on Payments To Influence Certain Federal Transactions (DATE)

(a) *Definitions.* As used in this clause—

Agency means ''*executive agency*'' as defined in Federal Acquisition Regulation (FAR) 2.101.

Covered Federal action means any of the following actions:

(1) Awarding any Federal contract.

(2) Making any Federal grant.

(3) Making any Federal loan.

(4) Entering into any cooperative agreement.

(5) Extending, continuing, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.

Indian tribe and ''tribal organization'' have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) and include Alaskan Natives.

Influencing or attempting to influence means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

Local government means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

Officer or employee of an agency includes the following individuals who are employed by an agency:

(1) An individual who is appointed to a position in the Government under Title 5, United States Code, including a position under a temporary appointment.

(2) A member of the uniformed services, as defined in subsection 101(3), Title 37, United States Code.

(3) A special Government employee, as defined in section 202, Title 18, United States Code.

(4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, appendix 2.

Person means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

Reasonable compensation means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

Reasonable payment means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

Recipient includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and *are* permitted by other Federal law.

Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person must be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

State means a State of the United States, the District of Columbia, or an outlying area of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) *Prohibition.* 31 U.S.C. 1352 prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal actions. In accordance with 31 U.S.C. 1352, the Contractor must not use appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the award of this contractor the extension, continuation, renewal, amendment, or modification of this contract.

(1) The term *appropriated funds* does not include profit or fee from a covered Federal action.

(2) To the extent the Contractor can demonstrate that the Contractor has sufficient monies, other than Federal appropriated funds, the Government will assume that these other monies were spent for any influencing activities that would be unallowable if paid for with Federal appropriated funds.

(c) *Exceptions.* The prohibition in paragraph (b) of this clause does not apply under the following conditions:

(1) *Agency and legislative liaison by Contractor employees.*

(i) Payment of reasonable compensation made to an officer or employee of the Contractor if the payment is for agency and legislative liaison activities not directly related to this contract. For purposes of this paragraph, providing any information specifically requested by an agency or Congress is permitted at any time.

(ii) Participating with an agency in discussions that are not related to a specific solicitation for any covered Federal action, but that concern—

(A) The qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities; or

(B) The application or adaptation of the person's products or services for an agency's use.

(iii) Providing prior to formal solicitation of any covered Federal action any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(iv) Participating in technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(v) Making capability presentations prior to formal solicitation of any covered Federal action by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95–507, and subsequent amendments.

(2) *Professional and technical services.*

(i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(iii) As used in paragraph (c)(2) of this clause, ''professional and technical services'' are limited to advice and analysis directly applying any professional or technical discipline (for examples, see FAR 3.803(a)(2)(iii)).

(iv) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.

(3) Only those communications and services expressly authorized by paragraphs (c)(1) and (2) of this clause are permitted.

(d) *Disclosure.*

(1) If the Contractor did not submit OMB Standard Form LLL, Disclosure of Lobbying Activities, with its offer, but registrants under the Lobbying Disclosure Act of 1995 have subsequently made a lobbying contact on behalf of the Contractor with respect to this contract, the Contractor must complete and submit OMB Standard Form LLL to provide the name of the lobbying registrants, including the individuals performing the services.

(2) If the Contractor did submit OMB Standard Form LLL disclosure pursuant to paragraph (d) of the provision at FAR 52.203–11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and a change occurs that affects Block 10 of the OMB Standard Form LLL (name and address of lobbying registrant or individuals performing services), the Contractor must, at the end of the calendar quarter in which the change occurs, submit to the Contracting Officer within 30 days an updated disclosure using OMB Standard Form LLL.

(e) *Penalties.*

(1) Any person who makes an expenditure prohibited under paragraph (b) of this clause or who fails to file or amend the disclosure to be filed or amended by paragraph (d) of this clause is subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(2) Contractors may rely without liability on the representation made by their subcontractors in the certification and disclosure form.

(f) *Cost allowability.* Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision.

(g) *Subcontracts.*

(1) The Contractor must obtain a declaration, including the certification and disclosure in paragraphs (c) and (d) of the provision at FAR 52.203–11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, from each person requesting or receiving a subcontract under this contract that exceeds the threshold specified in FAR 3.808 on the date of subcontract award. The Contractor or subcontractor that awards the subcontract must retain the declaration.

(2) A copy of each subcontractor disclosure form (but not certifications) must be forwarded from tier to tier until received by the prime Contractor. The prime Contractor must, at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor, submit to the Contracting Officer within 30 days a copy of all disclosures. Each subcontractor certification must be retained in the subcontract file of the awarding Contractor.

(3) The Contractor must include the substance of this clause, including this paragraph (g), in any subcontract at any tier under this contract, if the value exceeds the threshold specified in FAR 3.808 on the date of subcontract award. Do not include this clause in subcontracts for commercial products or commercial services.

(End of clause)

52.203–13 Contractor Code of Business Ethics and Conduct.

As prescribed in 3.1004(a), insert the following clause:

Contractor Code of Business Ethics and Conduct (DATE)

(a) *Definitions. As used in this clause—*

Agent means any individual, including a director, an officer, an employee, or an independent Contractor, authorized to act on behalf of the organization.

Full cooperation—

(1) Means disclosure to the Government of the information sufficient for law enforcement to identify the nature and extent of the offense and the individuals responsible for the conduct. It includes providing timely and complete response to Government auditors' and investigators' request for documents and access to employees with information;

(2) Does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not require—

(i) A Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine; or

(ii) Any officer, director, owner, or employee of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; and

(3) Does not restrict a Contractor from—

(i) Conducting an internal investigation; or

(ii) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

Principal means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.,* general manager; plant manager; head of a division or business segment; and similar positions).

Subcontract means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

Subcontractor means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.

United States, means the 50 States, the District of Columbia, and outlying areas.

(b) *Code of business ethics and conduct.*

(1) Within 30 days after contract award, unless the Contracting Officer

establishes a longer time period, the Contractor must—

(i) Have a written code of business ethics and conduct;

(ii) Make a copy of the code available to each employee engaged in performance of the contract.

(2) The Contractor must—

(i) Exercise due diligence to prevent and detect criminal conduct; and

(ii) Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

(3)(i) The Contractor must timely disclose, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed—

(A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or

(B) A violation of the civil False Claims Act (31 U.S.C. 3729–3733).

(ii) The Government, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the Contractor's disclosure as confidential where the information has been marked ''confidential'' or ''proprietary'' by the company. To the extent permitted by law and regulation, such information will not be released by the Government to the public pursuant to a Freedom of Information Act request, 5 U.S.C. Section 552, without prior notification to the Contractor. The Government may transfer documents provided by the Contractor to any department or agency within the Executive Branch if the information relates to matters within the organization's jurisdiction.

(iii) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Contractor must notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract.

(c) Business ethics awareness and compliance program and internal control system. This paragraph (c) does not apply if the Contractor has represented itself as a small business concern pursuant to the award of this contract or if this contract is for the acquisition of a commercial product or commercial service as defined at FAR 2.101. The Contractor must establish the following within 90 days after contract award, unless the Contracting Officer establishes a longer time period:

(1) An ongoing business ethics awareness and compliance program.

(i) This program must include reasonable steps to communicate periodically and in a practical manner the Contractor's standards and procedures and other aspects of the Contractor's business ethics awareness and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual's respective roles and responsibilities.

(ii) The training conducted under this program must be provided to the Contractor's principals and employees, and as appropriate, the Contractor's agents and subcontractors.

(2) An internal control system.

(i) The Contractor's internal control system must—

(A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and

(B) Ensure corrective measures are promptly instituted and carried out.

(ii) At a minimum, the Contractor's internal control system must provide for the following:

(A) Assignment of responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.

(B) Reasonable efforts not to include an individual as a principal, whom due diligence would have exposed as having engaged in conduct that is in conflict with the Contractor's code of business ethics and conduct.

(C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor's code of business ethics and conduct and the special requirements of Government contracting, including—

(1) Monitoring and auditing to detect criminal conduct;

(2) Periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and

(3) Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.

(D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.

(F) Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Contractor or a subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31 U.S.C. 3729–3733).

(1) If a violation relates to more than one Government contract, the Contractor may make the disclosure to the agency OIG and Contracting Officer responsible for the largest dollar value contract impacted by the violation.

(2) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the contractor must notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract, and the respective agencies' contracting officers.

(3) The disclosure requirement for an individual contract continues until at least 3 years after final payment on the contract.

(4) The Government will safeguard such disclosures in accordance with paragraph (b)(3)(ii) of this clause.

(G) Full cooperation with any Government agencies responsible for audits, investigations, or corrective actions.

(d) *Subcontracts.*

(1) The Contractor must include the substance of this clause, including this paragraph (d), in subcontracts at any tier under the contract, including those for commercial products and commercial services, if—

(i) The value of the subcontract exceeds the threshold specified in FAR 3.1004(a) on the date of subcontract award; and

(ii) The performance period of the subcontract is greater than 120 days.

(2) In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law must be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(End of clause)

52.203–14 Display of Hotline Poster(s).

As prescribed in 3.1004(b), insert the following clause:

Display of Hotline Poster(s) (DATE)

(a) *Definition.*

United States, as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) *Display of fraud hotline poster(s).* Except as provided in paragraph (c)—

(1) During contract performance in the United States, the Contractor must prominently display in common work areas within business segments performing work under this contract and at contract work sites—

(i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and

(ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.

(2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor must display an electronic version of the poster(s) at the website.

(3) Any required posters may be obtained as follows:

Poster(s)	*Obtain from*
_____	_____
_____	_____
__.	__
_____	_____
_____	_____
__.	__

[(Contracting Officer must *insert—*

(i) Appropriate agency name(s) and/or title of applicable Department of Homeland Security fraud hotline poster); and

(ii) The website(s) or other contact information for obtaining the poster(s).)]

(c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.

(d) *Subcontracts.* The Contractor must include the substance of this clause, including this paragraph (d), in subcontracts at any tier under this contract with a value that exceeds the threshold specified in Federal Acquisition Regulation 3.1004(b)(1) on the date of subcontract award, except when the subcontract—

(1) Is for the acquisition of a commercial product or commercial service; or

(2) Is performed entirely outside the United States.

(End of clause)

52.203–15 [Removed and Reserved]

■ 6. Remove and reserve section 52.203–15.

■ 7. Revise sections 52.203–16 through 52.203–19 to read as follows:

52.203–16 Preventing Personal Conflicts of Interest.

As prescribed in 3.1106, insert the following clause:

Preventing Personal Conflicts of Interest (DATE)

(a) *Definitions.* As used in this clause—

Acquisition function closely associated with inherently governmental functions means supporting or providing advice or recommendations with regard to the following activities of a Federal agency:

(1) Planning acquisitions.

(2) Determining what supplies or services are to be acquired by the Government, including developing statements of work.

(3) Developing or approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria.

(4) Evaluating contract proposals.

(5) Awarding Government contracts.

(6) Administering contracts (including ordering changes or giving technical direction in contract performance or contract quantities, evaluating contractor performance, and accepting or rejecting contractor products or services).

(7) Terminating contracts.

(8) Determining whether contract costs are reasonable, allocable, and allowable.

Covered employee means an individual who performs an acquisition function closely associated with inherently governmental functions and is—

(1) An employee of the contractor; or

(2) A subcontractor that is a self-employed individual treated as a covered employee of the contractor because there is no employer to whom such an individual could submit the required disclosures.

Non-public information means any Government or third-party information that—

(1) Is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) or otherwise protected from disclosure by statute, Executive order, or regulation; or

(2) Has not been disseminated to the general public and the Government has not yet determined whether the information can or will be made available to the public.

Personal conflict of interest means a situation in which a covered employee has a financial interest, personal activity, or relationship that could impair the employee's ability to act impartially and in the best interest of the Government when performing under the contract. (A de minimis interest that would not ''impair the employee's ability to act impartially and in the best interest of the Government'' is not covered under this definition.)

(1) Among the sources of personal conflicts of interest are—

(i) Financial interests of the covered employee, of close family members, or of other members of the covered employee's household;

(ii) Other employment or financial relationships (including seeking or negotiating for prospective employment or business); and

(iii) Gifts, including travel.

(2) For example, financial interests referred to in paragraph (1) of this definition may arise from—

(i) Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;

(ii) Consulting relationships (including commercial and professional consulting and service arrangements, scientific and technical advisory board memberships, or serving as an expert witness in litigation);

(iii) Services provided in exchange for honorariums or travel expense reimbursements;

(iv) Research funding or other forms of research support;

(v) Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);

(vi) Real estate investments;

(vii) Patents, copyrights, and other intellectual property interests; or

(viii) Business ownership and investment interests.

(b) *Requirements.* The Contractor must—

(1) Have procedures in place to screen covered employees for potential personal conflicts of interest, by—

(i) Obtaining and maintaining from each covered employee, when the

employee is initially assigned to the task under the contract, a disclosure of interests that might be affected by the task to which the employee has been assigned, as follows:

(A) Financial interests of the covered employee, of close family members, or of other members of the covered employee's household.

(B) Other employment or financial relationships of the covered employee (including seeking or negotiating for prospective employment or business).

(C) Gifts, including travel; and

(ii) Requiring each covered employee to update the disclosure statement whenever the employee's personal or financial circumstances change in such a way that a new personal conflict of interest might occur because of the task the covered employee is performing.

(2) For each covered employee—

(i) Prevent personal conflicts of interest, including not assigning or allowing a covered employee to perform any task under the contract for which the Contractor has identified a personal conflict of interest for the employee that the Contractor or employee cannot satisfactorily prevent or mitigate in consultation with the contracting agency;

(ii) Prohibit use of non-public information accessed through performance of a Government contract for personal gain; and

(iii) Obtain a signed non-disclosure agreement to prohibit disclosure of non-public information accessed through performance of a Government contract.

(3) Inform covered employees of their obligation—

(i) To disclose and prevent personal conflicts of interest;

(ii) Not to use non-public information accessed through performance of a Government contract for personal gain; and

(iii) To avoid even the appearance of personal conflicts of interest;

(4) Maintain effective oversight to verify compliance with personal conflict-of-interest safeguards;

(5) Take appropriate disciplinary action in the case of covered employees who fail to comply with policies established pursuant to this clause; and

(6) Report to the Contracting Officer any personal conflict-of-interest violation by a covered employee as soon as it is identified. This report must include a description of the violation and the proposed actions to be taken by the Contractor in response to the violation. Provide follow-up reports of corrective actions taken, as necessary. Personal conflict-of-interest violations include—

(i) Failure by a covered employee to disclose a personal conflict of interest;

(ii) Use by a covered employee of non-public information accessed through performance of a Government contract for personal gain; and

(iii) Failure of a covered employee to comply with the terms of a non-disclosure agreement.

(c) Mitigation or waiver.

(1) In exceptional circumstances, if the Contractor cannot satisfactorily prevent a personal conflict of interest as required by paragraph (b)(2)(i) of this clause, the Contractor may submit a request through the Contracting Officer to the Head of the Contracting Activity for—

(i) Agreement to a plan to mitigate the personal conflict of interest; or

(ii) A waiver of the requirement.

(2) The Contractor must include in the request any proposed mitigation of the personal conflict of interest.

(3) The Contractor must—

(i) Comply, and require compliance by the covered employee, with any conditions imposed by the Government as necessary to mitigate the personal conflict of interest; or

(ii) Remove the Contractor employee or subcontractor employee from performance of the contract or terminate the applicable subcontract.

(d) *Subcontracts.* The Contractor—

(1) Must include the substance of this clause, including this paragraph (d), in a subcontract at any tier under this contract that—

(i) Has a value that exceeds the simplified acquisition threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award; and

(ii) Will require subcontractor employees to perform acquisition functions closely associated with inherently governmental functions.

(2) Is not required to include this clause in—

(i) A subcontract with a self-employed individual if the acquisition functions closely associated with inherently governmental functions are to be performed entirely by the self-employed individual; or

(ii) A subcontract for commercial products or commercial services.

(End of clause)

52.203–17 Contractor Employee Whistleblower Rights.

As prescribed in 3.906, insert the following clause:

Contractor Employee Whistleblower Rights (DATE)

(a) *Applicability.* This contract and employees working on this contract will be subject to the whistleblower rights and remedies established at 41 U.S.C. 4712 and Federal Acquisition Regulation (FAR) 3.900 through 3.905.

(b) *Requirement.* The Contractor must inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in FAR 3.900 through 3.905.

(c) *Subcontracts.* The Contractor must include the substance of this clause, including this paragraph (c), in subcontracts at any tier under this contract, including those for commercial products and commercial services.

(End of clause)

52.203–18 Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements-Representation.

As prescribed in 3.909–3(a), insert the following provision:

Prohibition on Contracting With Entities That Require Certain Internal Confidentiality Agreements or Statements-Representation (DATE)

(a) *Definition.* As used in this provision—

Internal confidentiality agreement or statement, subcontract, and subcontractor are defined in the clause at 52.203–19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements.

(b) *Prohibition.* In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions), Government agencies are not permitted to use funds appropriated (or otherwise made available) for contracts with an entity that requires employees or subcontractors of such entity seeking to report waste, fraud, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(c) *Exception.* The prohibition in paragraph (b) of this provision does not contravene requirements applicable to Standard Form 312, (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(d) *Representation.* By submission of its offer, the Offeror represents that it

will not require its employees or subcontractors to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting waste, fraud, or abuse related to the performance of a Government contract to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information (*e.g.,* agency Office of the Inspector General).

(End of provision)

52.203–19 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements.

As prescribed in 3.909–3(b), insert the following clause:

Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (DATE)

(a) *Definitions.* As used in this clause—

Internal confidentiality agreement or statement means a confidentiality agreement or any other written statement that the contractor requires any of its employees or subcontractors to sign regarding nondisclosure of contractor information, except that it does not include confidentiality agreements arising out of civil litigation or confidentiality agreements that contractor employees or subcontractors sign at the behest of a Federal agency.

Subcontract means any contract as defined in subpart 2.1 entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

Subcontractor means any supplier, distributor, vendor, or firm (including a consultant) that furnishes supplies or services to or for a prime contractor or another subcontractor.

(b) *Prohibition.* The Contractor must not require its employees or subcontractors to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting waste, fraud, or abuse related to the performance of a Government contract to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information (*e.g.,* agency Office of the Inspector General).

(c) *Notification.* The Contractor must notify current employees and subcontractors that prohibitions and restrictions of any preexisting internal confidentiality agreements or statements covered by this clause, to the extent that such prohibitions and restrictions are inconsistent with the prohibitions of this clause, are no longer in effect.

(d) *Other agreements.* The prohibition in paragraph (b) of this clause does not contravene requirements applicable to Standard Form 312 (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(e) *Restrictions on use of funds.* In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015, (Pub. L. 113–235), and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions) use of funds appropriated (or otherwise made available) is prohibited, if the Government determines that the Contractor is not in compliance with the provisions of this clause.

(f) *Subcontracts.* The Contractor must include the substance of this clause, including this paragraph (f), in subcontracts at any tier under this contract, including those for commercial products and commercial services.

(End of clause)

■ 8. Revise sections 52.249–1 through 52.249–10, 52.249–12, and 52.249–14 to read as follows:

52.249–1 Termination for Convenience of the Government (Fixed-Price) (Short Form).

As prescribed in 49.502(a)(1), insert the following clause:

Termination for Convenience of the Government (Fixed-Price) (Short Form) (DATE)

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the rights, duties, and obligations of the parties, including compensation to the Contractor, must be in accordance with part 49 of the Federal Acquisition Regulation in effect on the date of this contract.

(End of clause)

Alternate I (DATE). If the contract is for dismantling, demolition, or removal of improvements, designate the basic clause as paragraph (a) and add the following paragraph (b):

(b) Upon receipt of the termination notice, if title to property is vested in the Contractor under this contract, it must revest in the Government regardless of any other clause of the contract, except for property that the Contractor disposed of by bona fide sale or removed from the site.

52.249–2 Termination for Convenience of the Government (Fixed-Price).

As prescribed in 49.502(b)(1)(i), insert the following clause:

Termination for Convenience of the Government (Fixed-Price) (DATE)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer must terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor must immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.

(3) Terminate all subcontracts to the extent they relate to the work terminated.

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, so that the Government has the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.

(6) As directed by the Contracting Officer, transfer title and deliver to the Government—

(i) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and

(ii) The completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting

Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in paragraph (b)(6) of this clause; *provided,* however, that the Contractor is not required to extend credit to any purchaser, and may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(c) The Contractor must submit complete termination inventory schedules no later than 60 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within 60 days after the effective date of the termination.

(d) After expiration of the plant clearance period as defined in 49.001 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and must correct the list, as necessary, before final settlement.

(e) After termination, the Contractor must submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor must submit the proposal promptly, but no later than 90 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within 60 days after the effective date of the termination. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 90 days or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and must pay the amount determined.

(f) Subject to paragraph (e) of this clause, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid or remaining to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (f) or paragraph (g) of this clause, exclusive of costs shown in paragraph (g)(3) of this clause, may not exceed the total contract price as reduced by the amount of payments previously made, and further reduced by the contract price of work not terminated. The contract must be modified, and the Contractor paid the agreed amount. Paragraph (g) of this clause does not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(g) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination of work, the Contracting Officer must pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (f) of this clause:

(1) The contract price for completed supplies or services accepted by the Government (or sold or acquired under paragraph (b)(9) of this clause) not previously paid for, adjusted for any saving of freight and other charges.

(2) The total of—

(i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under paragraph (g)(1) of this clause;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in paragraph (g)(2)(i) of this clause; and

(iii) A sum, as profit on the amount described by paragraph (g)(2)(i) of this clause, determined by the Contracting Officer to be fair and reasonable under the version of section 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer must allow no profit under this paragraph (g)(2)(iii) and must reduce the settlement to reflect the indicated rate of loss.

(3) The reasonable costs of settlement of the work terminated, including—

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

(h) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting Officer must exclude from the amounts payable to the Contractor under paragraph (g) of this clause, the fair value as determined by the Contracting Officer, for the loss of the Government property.

(i) The cost principles and procedures of part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, govern all costs claimed, agreed to, or determined under this clause.

(j) The Contractor has the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (e), (g), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal or request for equitable adjustment within the time provided in paragraph (e) or (l), respectively, and failed to request a time extension, there is no right of appeal.

(k) In arriving at the amount due the Contractor under this clause, the following must be deducted—

(1) All unliquidated advance or other payments to the Contractor under the terminated portion of this contract;

(2) The amount of any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the Government.

(l) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer must make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause must be requested within 90 days from the effective date of termination unless

extended in writing by the Contracting Officer.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor must repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 41 U.S.C. 7109. Interest must be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest must not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(n) Unless otherwise provided in this contract or by statute, the Contractor must maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor must make these records and documents available to the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

(End of clause)

Alternate I (DATE). If the contract is for construction, substitute the following paragraph (g) for paragraph (g) of the basic clause:

(g) If the Contractor and Contracting Officer fail to agree on the whole amount to be paid the Contractor because of the termination of work, the Contracting Officer must pay the Contractor the amounts determined as follows, but without duplication of any amounts agreed upon under paragraph (f) of this clause:

(1) For contract work performed before the effective date of termination, the total (without duplication of any items) of—

(i) The cost of this work;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in paragraph (g)(1)(i) of this clause; and

(iii) A sum, as profit on the amount described by paragraph (g)(1)(i) of this clause, determined by the Contracting Officer to be fair and reasonable under the version of section 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer must allow no profit under this paragraph (g)(1)(iii) and must reduce the settlement to reflect the indicated rate of loss.

(2) The reasonable costs of settlement of the work terminated, including—

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

Alternate II (DATE). If the contract is with an agency of the U.S. Government or with State, local, or foreign governments or their agencies, and if the Contracting Officer determines that the requirement to pay interest on excess partial payments is inappropriate, delete paragraph (m)(2) of the basic clause.

Alternate III (DATE). If the contract is for construction and with an agency of the U.S. Government or with State, local, or foreign governments or their agencies, substitute the following paragraph (g) for paragraph (g) of the basic clause. Paragraph (m)(2) may be deleted from the basic clause if the Contracting Officer determines that the requirement to pay interest on excess partial payments is inappropriate.

(g) If the Contractor and Contracting Officer fail to agree on the whole amount to be paid the Contractor because of the termination of work, the Contracting Officer must pay the Contractor the amounts determined as follows, but without duplication of any amounts agreed upon under paragraph (f) of this clause:

(1) For contract work performed before the effective date of termination, the total (without duplication of any items) of—

(i) The cost of this work;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in paragraph (g)(1)(i) of this clause; and

(iii) A sum, as profit on the amount described by paragraph (g)(1)(i) of this clause, determined by the Contracting Officer to be fair and reasonable under the version of section 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer must allow no profit under this paragraph (iii) and must reduce the settlement to reflect the indicated rate of loss.

(2) The reasonable costs of settlement of the work terminated, including—

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

52.249–3 Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements).

As prescribed in 49.502(b)(2)(ii), insert the following clause:

Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements) (DATE)

(a) The Government may terminate performance of work under this contract, in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest.

The Contracting Officer must terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date. Upon receipt of the notice, if title to property is vested in the Contractor under this contract, it must revest in the Government regardless of any other clause of this contract, except for property that the Contractor disposed of by bona fide sale or removed from the site.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor must immediately proceed with the following obligations, regardless of delay in determining or adjusting any amounts due under this clause:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.

(3) Terminate all subcontracts to the extent they relate to the work terminated.

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, so that the Government has the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.

(6) As directed by the Contracting Officer, transfer title and deliver to the Government—

(i) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and

(ii) The completed or partially completed plans, drawings, information, and other property that, if the contract has been completed, would be required to be furnished to the Government.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in paragraph (b)(6) of this clause; provided, however, that the Contractor is not required to extend credit to any purchaser, and may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(c) The Contractor must submit complete termination inventory schedules no later than 60 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within 30 days after the effective date of termination.

(d) After expiration of the plant clearance period as defined in 49.001 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and must correct the list, as necessary, before final settlement.

(e) After termination, the Contractor must submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor must submit the proposal promptly, but no later than 90 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within 60 days after the effective date of the termination. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 90 days or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and must pay the amount determined.

(f) Subject to paragraph (e) of this clause, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (f) or paragraph (g) of this clause, exclusive of settlement costs, may not exceed the total contract price as reduced by the amount of payments previously made, and further reduced by the contract price of work not terminated. The contract must be amended and the Contractor paid the agreed amount. Paragraph (g) of this clause does not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(g) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination of work, the Contracting Officer must pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (f) of this clause:

(1) For contract work performed before the effective date of termination, the total (without duplication of any items) of—

(i) The cost of this work;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract, if not included in paragraph (g)(1)(i) of this clause; and

(iii) A sum, as profit on the amount described by paragraph (g)(1)(i) of this clause, determined by the Contracting Officer to be fair and reasonable under the version of section 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer must allow no profit under this paragraph (iii) and must reduce the amount of the settlement to reflect the indicated rate of loss.

(2) The reasonable costs of settlement of the work terminated, including—

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Preservation and protection of property under paragraph (b)(8) of this clause.

(h) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting Officer must exclude from the amounts payable to the Contractor under paragraph (g) of this clause, the fair value, as determined by the Contracting Officer, for the loss of the Government property.

(i) The cost principles and procedures of part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, must govern all costs claimed, agreed to, or determined under this clause.

(j) The Contractor has the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (e), (g), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal within

the time provided in paragraph (e) or (l) and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (e), (g), or (l) of this clause, the Government must pay the Contractor—

(1) The amount determined by the Contracting Officer, if there is no right of appeal or if no timely appeal has been taken; or

(2) The amount finally determined on an appeal.

(k) In arriving at the amount due the Contractor under this clause, there must be deducted—

(1) All unliquidated advance or other payments to the Contractor under the terminated portion of this contract;

(2) Any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the Government.

(l) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer must make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause must be requested within 90 days from the effective date of termination unless extended in writing by the Contracting Officer.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against cost incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor must repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 41 U.S.C. 7109. Interest must be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest must not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(n) Unless otherwise provided in this contract or by statute, the Contractor must maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor must make these records and documents available to the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

(End of clause)

Alternate I (DATE). If the contract is with an agency of the U.S. Government or with State, local, or foreign governments or their agencies, and if the contracting officer determines that the requirement to pay interest on excess partial payments is inappropriate, delete paragraph (m)(2) from the basic clause.

52.249–4 Termination for Convenience of the Government (Services) (Short Form).

As prescribed in 49.502(c), insert the following clause:

Termination for Convenience of the Government (Services) (Short Form) (DATE)

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Government is liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

(End of clause)

52.249–5 Termination for Convenience of the Government (Educational and Other Nonprofit Institutions).

As prescribed in 49.502(d), insert the following clause:

Termination for Convenience of the Government (Educational and Other Nonprofit Institutions) (DATE)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer must terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

(b) After receipt of a Notice of Termination and except as directed by the Contracting Officer, the Contractor must immediately proceed with the following obligations:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause), except as necessary to complete the continued portion of the contract.

(3) Terminate all applicable subcontracts and cancel or divert applicable commitments covering personal services that extend beyond the effective date of termination.

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, so that the Government has the right to settle or pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; approval or ratification will be final for purposes of this clause.

(6) Transfer title (if not already transferred) and, as directed by the Contracting Officer, deliver to the Government any information and items that, if the contract had been completed, would have been required to be furnished, including—

(i) Materials or equipment produced, in process, or acquired for the work terminated; and

(ii) Completed or partially completed plans, drawings, and information.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, termination inventory other than that retained by the Government under paragraph (b)(6) of this clause; *provided, however,* that the Contractor is not required to extend credit to any purchaser, and may and may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work,

or paid in any other manner directed by the Contracting Officer.

(c) The Contractor must submit complete termination inventory schedules no later than 60 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within 30 days after the effective date of termination.

(d) After termination, the Contractor must submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor must submit the proposal promptly but no later than 90 days from the effective date of termination unless extended in writing by the Contracting Officer upon written request of the Contractor within 60 days after the effective date of the termination. If the Contractor fails to submit the termination settlement proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and must pay the amount determined.

(e) Subject to paragraph (d) of this clause, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. This amount may include reasonable cancellation charges incurred by the Contractor and any reasonable loss on outstanding commitments for personal services that the Contractor is unable to cancel; *provided,* that the Contractor exercised reasonable diligence in diverting such commitments to other operations. The contract must be amended and the Contractor paid the agreed amount.

(f) The cost principles and procedures in subpart 31.3 of the Federal Acquisition Regulation (FAR), Contracts with Educational Institutions (defined as institutions of higher education in the OMB Uniform Guidance in 2 CFR part 200, subpart A, and 20 U.S.C. 1001), as in effect on the date of the contract, must govern all costs claimed, agreed to, or determined under this clause; however, if the Contractor is not an educational institution and is a nonprofit organization (as defined in the OMB Uniform Guidance at 2 CFR part 200), the cost principles and procedures in subpart 31.7 of the FAR, Contracts with Nonprofit Organizations, must apply; unless the Contractor is a nonprofit institution listed in the OMB Uniform Guidance at 2 CFR part 200, appendix VIII, as exempted from the cost principles in subpart E, in which case the cost principles at FAR 31.2 for commercial organizations must apply to such contractor.

(g) The Government may, under the terms and conditions it prescribes, make partial payments against costs incurred by the Contractor for the terminated portion of this contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(h) The Contractor has the right of appeal as provided under the Disputes clause, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (d) of this clause and failed to request a time extension, there is no right of appeal.

(End of clause)

52.249–6 Termination (Cost-Reimbursement).

As prescribed in 49.503(a)(1), insert the following clause:

Termination (Cost-Reimbursement) (DATE)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part, if—

(1) The Contracting Officer determines that a termination is in the Government's interest; or

(2) The Contractor defaults in performing this contract and fails to cure the default within 10 days (unless extended by the Contracting Officer) after receiving a notice specifying the default. ''Default'' includes failure to make progress in the work so as to endanger performance.

(b) The Contracting Officer must terminate by delivering to the Contractor a Notice of Termination specifying whether termination is for default of the Contractor or for convenience of the Government, the extent of termination, and the effective date. If, after termination for default, it is determined that the Contractor was not in default or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor as set forth in the Excusable Delays clause, the rights and obligations of the parties will be the same as if the termination was for the convenience of the Government.

(c) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor must immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause), except as necessary to complete the continued portion of the contract.

(3) Terminate all subcontracts to the extent they relate to the work terminated.

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, so that the Government has the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, the cost of which would be reimbursable in whole or in part, under this contract; approval or ratification will be final for purposes of this clause.

(6) Transfer title (if not already transferred) and, as directed by the Contracting Officer, deliver to the Government—

(i) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated;

(ii) The completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government; and

(iii) The jigs, dies, fixtures, and other special tools and tooling acquired or manufactured for this contract, the cost of which the Contractor has been or will be reimbursed under this contract.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in paragraph (c)(6) of this clause; *provided, however,* that the Contractor is not required to extend credit to any purchaser, and may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the

Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(d) The Contractor must submit complete termination inventory schedules no later than 60 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within 30 days after the effective date of termination.

(e) After expiration of the plant clearance period as defined in 49.001 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept the items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and must correct the list, as necessary, before final settlement.

(f) After termination, the Contractor must submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor must submit the proposal promptly, but no later than 90 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within 60 days after the effective date of the termination. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after the 90 day period or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and must pay the amount determined.

(g) Subject to paragraph (f) of this clause, the Contractor and the Contracting Officer may agree on the whole or any part of the amount to be paid (including an allowance for fee) because of the termination. The contract must be amended, and the Contractor paid the agreed amount.

(h) If the Contractor and the Contracting Officer fail to agree in whole or in part on the amount of costs and/or fee to be paid because of the termination of work, the Contracting Officer must determine, on the basis of information available, the amount, if any, due the Contractor, and must pay that amount, which must include the following:

(1) All costs reimbursable under this contract, not previously paid, for the performance of this contract before the effective date of the termination, and those costs that may continue for a reasonable time with the approval of or as directed by the Contracting Officer; however, the Contractor must discontinue those costs as rapidly as practicable.

(2) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in paragraph (h)(1) of this clause.

(3) The reasonable costs of settlement of the work terminated, including—

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory. If the termination is for default, no amounts for the preparation of the Contractor's termination settlement proposal may be included.

(4) A portion of the fee payable under the contract, determined as follows:

(i) If the contract is terminated for the convenience of the Government, the settlement must include a percentage of the fee equal to the percentage of completion of work contemplated under the contract, but excluding subcontract effort included in subcontractors' termination proposals, less previous payments for fee.

(ii) If the contract is terminated for default, the total fee payable must be such proportionate part of the fee as the total number of articles (or amount of services) delivered to and accepted by the Government is to the total number of articles (or amount of services) of a like kind required by the contract.

(5) If the settlement includes only fee, it will be determined under paragraph (h)(4) of this clause.

(i) The cost principles and procedures in part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, govern all costs claimed, agreed to, or determined under this clause.

(j) The Contractor has the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (f), (h), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (f) and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (f), (h) or (l) of this clause, the Government must pay the Contractor—

(1) The amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken; or

(2) The amount finally determined on an appeal.

(k) In arriving at the amount due the Contractor under this clause, the following must be deducted—

(1) All unliquidated advance or other payments to the Contractor, under the terminated portion of this contract;

(2) The amount of any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of materials, supplies, or other things acquired by the Contractor or sold under this clause and not recovered by or credited to the Government.

(l) The Contractor and Contracting Officer must agree to any equitable adjustment in fee for the continued portion of the contract when there is a partial termination. The Contracting Officer must amend the contract to reflect the agreement.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor must repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 41 U.S.C. 7109. Interest must be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest must not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(n) The provisions of this clause relating to fee are inapplicable if this contract does not include a fee.

(End of clause)

Alternate I (DATE). If the contract is for construction, substitute the following paragraph (h)(4) for paragraph (h)(4) of the basic clause:

(4) A portion of the fee payable under the contract determined as follows:

(i) If the contract is terminated for the convenience of the Government, the settlement must include a percentage of the fee equal to the percentage of completion of work contemplated under the contract, but excluding subcontract effort included in subcontractors' termination settlement proposals, less previous payments for fee.

(ii) If the contract is terminated for default, the total fee payable must be such proportionate part of the fee as the actual work in place is to the total work in place required by the contract.

Alternate II (DATE). If the contract is with an agency of the U.S. Government or with State, local, or foreign governments or their agencies, and if the contracting officer determines that the requirement to pay interest on excess partial payments is inappropriate, delete paragraph (m)(2) from the basic clause.

Alternate III (DATE). If the contract is for construction with an agency of the U.S. Government or with State, local, or foreign governments or their agencies, the following paragraph (h)(4) must be substituted for paragraph (h)(4) of the basic clause. Paragraph (m)(2) may be deleted from the basic clause if the contracting officer determines that the requirement to pay interest on excess partial payments is inappropriate.

(4) A portion of the fee payable under the contract determined as follows:

(i) If the contract is terminated for the convenience of the Government, the settlement must include a percentage of the fee equal to the percentage of completion of work contemplated under the contract, but excluding subcontract effort included in subcontractors' termination settlement proposals, less previous payments for fee.

(ii) If the contract is terminated for default, the total fee payable must be such proportionate part of the fee as the actual work in place is to the total work in place required by the contract.

Alternate IV (DATE). If the contract is a time-and-material or labor-hour contract, substitute the following paragraphs (h) and (l) for paragraphs (h) and (l) of the basic clause:

(h) If the Contractor and the Contracting Officer fail to agree in whole or in part on the amount to be paid because of the termination of work, the Contracting Officer must determine, on the basis of information available, the amount, if any, due the Contractor and must pay the amount determined as follows:

(1) If the termination is for the convenience of the Government, include—

(i) An amount for direct labor hours (as defined in the Schedule of the contract) determined by multiplying the number of direct labor hours expended before the effective date of termination by the hourly rate(s) in the Schedule, less any hourly rate payments already made to the Contractor;

(ii) An amount (computed under the provisions for payment of materials) for material expenses incurred before the effective date of termination, not previously paid to the Contractor;

(iii) An amount for labor and material expenses computed as if the expenses were incurred before the effective date of termination, if they are reasonably incurred after the effective date, with the approval of or as directed by the Contracting Officer; however, the Contractor must discontinue these expenses as rapidly as practicable;

(iv) If not included in paragraph (h)(1)(i), (ii), or (iii) of this clause, the cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract; and

(v) The reasonable costs of settlement of the work terminated, including—

(A) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(B) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(C) Storage, transportation, and other costs incurred, reasonably necessary for the protection or disposition of the termination inventory.

(2) If the termination is for default of the Contractor, include the amounts computed under paragraph (h)(1) of this clause but omit—

(i) Any amount for preparation of the Contractor's termination settlement proposal; and

(ii) The portion of the hourly rate allocable to profit for any direct labor hours expended in furnishing materials and services not delivered to and accepted by the Government.

(l) If the termination is partial, the Contractor may file with the Contracting Officer a proposal for an equitable adjustment of price(s) for the continued portion of the contract. The Contracting Officer must make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause must be requested within 90 days from the effective date of termination, unless extended in writing by the Contracting Officer.

Alternate V (DATE). If the contract is a time-and-material or labor-hour contract with an agency of the U.S. Government or with State, local or foreign governments or their agencies, substitute the following paragraphs (h) and (l) for paragraphs (h) and (l) of the basic clause. Paragraph (m)(2) may be deleted from the basic clause if the contracting officer determines that the requirement to pay interest on excess partial payments is inappropriate.

(h) If the Contractor and the Contracting Officer fail to agree in whole or in part on the amount to be paid because of the termination of work, the Contracting Officer must determine, on the basis of information available, the amount, if any, due the Contractor and must pay the amount determined as follows:

(1) If the termination is for the convenience of the Government, include—

(i) An amount for direct labor hours (as defined in the Schedule of the contract) determined by multiplying the number of direct labor hours expended before the effective date of termination by the hourly rate(s) in the Schedule, less any hourly rate payments already made to the contractor;

(ii) An amount (computed under the provisions for payment of materials) for material expenses incurred before the effective date of termination, not previously paid to the Contractor;

(iii) An amount for labor and material expenses computed as if the expenses were incurred before the effective date of termination if they are reasonably incurred after the effective date, with the approval of or as directed by the Contracting Officer; however, the Contractor must discontinue these expenses as rapidly as practicable;

(iv) If not included in paragraph (h)(1)(i), (ii), or (iii) of this clause, the cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract; and

(v) The reasonable costs of settlement of the work terminated, including—

(A) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(B) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(C) Storage, transportation, and other costs incurred, reasonably necessary for the protection or disposition of the termination inventory.

(2) If the termination is for default of the Contractor, include the amounts computed under paragraph (h)(1) of this clause but omit—

(i) Any amount for preparation of the Contractor's termination settlement proposal; and

(ii) The portion of the hourly rate allocable to profit for any direct labor hours expended in furnishing materials and services not delivered to and accepted by the Government.

(l) If the termination is partial, the Contractor may file with the Contracting Officer a proposal for an equitable adjustment of the price(s) for the continued portion of the contract. The Contracting Officer must make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause must be requested within 90 days from the effective date of termination, unless extended in writing by the Contracting Officer.

52.249–7 Termination (Fixed-Price Architect-Engineer).

As prescribed in 49.503(b), insert the following clause:

Termination (Fixed-Price Architect-Engineer) (DATE)

(a) The Government may terminate this contract in whole or, from time to time, in part, for the Government's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Contracting Officer must terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor must—

(1) Immediately discontinue all services affected (unless the notice directs otherwise); and

(2) Deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

(b) If the termination is for the convenience of the Government, the Contracting Officer must make an equitable adjustment in the contract price but must allow no anticipated profit on unperformed services.

(c) If the termination is for failure of the Contractor to fulfill the contract obligations, the Government may complete the work by contract or otherwise and the Contractor is liable for any additional cost incurred by the Government.

(d) If, after termination for failure to fulfill contract obligations, it is determined that the Contractor did not fail, the rights and obligations of the parties are the same as if the termination had been issued for the convenience of the Government.

(e) The rights and remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

52.249–8 Default (Fixed-Price Supply and Service).

As prescribed in 49.504(a)(1), insert the following clause:

Default (Fixed-Price Supply and Service) (DATE)

(a)(1) The Government may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to—

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or

(iii) Perform any of the other provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The Government's right to terminate this contract under paragraphs (a)(1)(ii) and (1)(iii) of this clause may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(b) If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the Government for any excess costs for those supplies or services. However, the Contractor must continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor is not liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include:

(1) Acts of God or of the public enemy,

(2) Acts of the Government in either its sovereign or contractual capacity,

(3) Fires,

(4) Floods,

(5) Epidemics,

(6) Quarantine restrictions,

(7) Strikes,

(8) Freight embargoes, and

(9) Unusually severe weather.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor must not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any completed supplies, and partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as ''manufacturing materials'' in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Contracting Officer, the Contractor must also protect and preserve property in its possession in which the Government has an interest.

(f) The Government must pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer must agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties must be the same as if the termination had been issued for the convenience of the Government.

(h) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

Alternate I (DATE). If the contract is for transportation or transportation-related services, delete paragraph (f) of the basic clause, redesignate the remaining paragraphs accordingly, and substitute the following paragraphs (a) and (e) for paragraphs (a) and (e) of the basic clause:

(a)(1) The Government may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to—

(i) Pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or

(iii) Perform any of the other provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The Government's right to terminate this contract under paragraphs (a)(1)(ii) and (iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(e) If this contract is terminated while the Contractor has possession of Government goods, the Contractor must, upon direction of the Contracting Officer, protect and preserve the goods until surrendered to the Government or its agent. The Contractor and Contracting Officer must agree on payment for the preservation and protection of goods. Failure to agree on an amount will be a dispute under the Disputes clause.

52.249–9 Default (Fixed-Price Research and Development).

As prescribed in 49.504(b), insert the following clause:

Default (Fixed-Price Research and Development) (DATE)

(a)(1) The Government may, subject to paragraphs (c) and (d) of this clause, by written Notice of Default to the Contractor, terminate this contract in whole or in part if the Contractor fails to—

(i) Perform the work under the contract within the time specified in this contract or any extension;

(ii) Prosecute the work so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or

(iii) Perform any of the other provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The Government's right to terminate this contract under paragraphs (a)(1)(ii) and (iii) of this clause may be exercised if the Contractor does not cure such failure within 10 days (or more, if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(b) If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, work similar to the work terminated, and the Contractor will be liable to the Government for any excess costs for the similar work. However, the Contractor must continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor must not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include:

(1) Acts of God or of the public enemy,

(2) Acts of the Government in either its sovereign or contractual capacity,

(3) Fires,

(4) Floods,

(5) Epidemics,

(6) Quarantine restrictions,

(7) Strikes,

(8) Freight embargoes, and

(9) Unusually severe weather.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor is not liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule or other performance requirements.

(e)(1) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any—

(i) Completed or partially completed work not previously delivered to, and accepted by, the Government, and

(ii) Other property, including contract rights, specifically produced or acquired for the terminated portion of this contract.

(2) Upon direction of the Contracting Officer, the Contractor must also protect and preserve property in its possession in which the Government has an interest.

(f)(1) The Government must pay the contract price, if separately stated, for completed work it has accepted and the amount agreed upon by the Contractor and the Contracting Officer for—

(i) Completed work for which no separate price is stated,

(ii) Partially completed work,

(iii) Other property described above that it accepts, and

(iv) The protection and preservation of the property.

(2) Failure to agree will be a dispute under the Disputes clause.

(3) The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss from outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties must be the same as if the termination had been issued for the convenience of the Government.

(h) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

52.249–10 Default (Fixed-Price Construction).

As prescribed in 49.504(c)(1), insert the following clause:

Default (Fixed-Price Construction) (DATE)

(a) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work (or the separable part of the work) that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties are liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

(b) The Contractor's right to proceed must not be terminated nor the

Contractor charged with damages under this clause, if—

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include—

(i) Acts of God or of the public enemy,

(ii) Acts of the Government in either its sovereign or contractual capacity,

(iii) Acts of another Contractor in the performance of a contract with the Government,

(iv) Fires,

(v) Floods,

(vi) Epidemics,

(vii) Quarantine restrictions,

(viii) Strikes,

(ix) Freight embargoes,

(x) Unusually severe weather, or

(xi) Delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer must ascertain the facts and the extent of delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the work must be extended. The findings of the Contracting Officer must be final and conclusive on the parties, but subject to appeal under the Disputes clause.

(c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Government.

(d) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

Alternate I (DATE). If the contract is for dismantling, demolition, or removal of improvements, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(a)(1) If the Contractor refuses or fails to prosecute the work, or any separable part, with the diligence that will insure its completion within the time specified in this contract, including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work or the part of the work that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work.

(2) If title to property is vested in the Contractor under this contract, it will revest in the Government regardless of any other clause of this contract, except for property that the Contractor has disposed of by bona fide sale or removed from the site.

(3) The Contractor and its sureties are liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

Alternate II (DATE). If the contract is to be awarded during a period of national emergency, paragraph (b)(1) below may be substituted for paragraph (b)(1) of the basic clause:

(1) The delay in completing the work arises from causes other than normal weather beyond the control and without the fault or negligence of the Contractor. Examples of such causes include—

(i) Acts of God or of the public enemy,

(ii) Acts of the Government in either its sovereign or contractual capacity,

(iii) Acts of another Contractor in the performance of a contract with the Government,

(iv) Fires,

(v) Floods,

(vi) Epidemics,

(vii) Quarantine restrictions,

(viii) Strikes,

(ix) Freight embargoes,

(x) Unusually severe weather, or

(xi) Delays of subcontractors or suppliers at any tier arising from causes other than normal weather beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

Alternate III (DATE). If the contract is for dismantling, demolition, or removal of improvements and is to be awarded during a period of national emergency, substitute the following paragraph (a) for paragraph (a) of the basic clause. The following paragraph (b)(1) may be substituted for paragraph (b)(1) of the basic clause:

(a)(1) If the Contractor refuses or fails to prosecute the work, or any separable part, with the diligence that will insure its completion within the time specified in this contract, including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work or the part of the work that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work.

(2) If title to property is vested in the Contractor under this contract, it will revest in the Government regardless of any other clause of this contract, except for property that the Contractor has disposed of by bona fide sale or removed from the site.

(3) The Contractor and its sureties are liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

(b) The Contractor's right to proceed must not be terminated nor the Contractor charged with damages under this clause, if—

(1) The delay in completing the work arises from causes other than normal weather beyond the control and without the fault or negligence of the Contractor. Examples of such causes include—

(i) Acts of God or of the public enemy,

(ii) Acts of the Government in either its sovereign or contractual capacity,

(iii) Acts of another Contractor in the performance of a contract with the Government,

(iv) Fires,

(v) Floods,

(vi) Epidemics,

(vii) Quarantine restrictions,

(viii) Strikes,

(ix) Freight embargoes,

(x) Unusually severe weather, or

(xi) Delays of subcontractors or suppliers at any tier arising from causes other than normal weather beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers.

52.249–12 Termination (Personal Services).

As prescribed in 49.505(a), insert the following clause:

Termination (Personal Services) (DATE)

The Government may terminate this contract at any time upon at least 15 days' written notice by the Contracting Officer to the Contractor. The Contractor, with the written consent of the Contracting Officer, may terminate this contract upon at least 15 days' written notice to the Contracting Officer.

(End of clause)

52.249–14 Excusable Delays.

As prescribed in 49.505(b), insert the following clause:

Excusable Delays (DATE)

(a) Except for defaults of subcontractors at any tier, the Contractor will not be deemed to be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. ''Default'' includes failure to make progress in the work so as to endanger performance. Examples of these causes are—

(1) Acts of God or of the public enemy,

(2) Acts of the Government in either its sovereign or contractual capacity,

(3) Fires,

(4) Floods,

(5) Epidemics,

(6) Quarantine restrictions,

(7) Strikes,

(8) Freight embargoes, and

(9) Unusually severe weather.

(b) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor will not be deemed to be in default, unless.

(1) The subcontracted supplies or services were obtainable from other sources;

(2) The Contracting Officer ordered the Contractor in writing to purchase these supplies or services from the other source; and

(3) The Contractor failed to comply reasonably with this order.

(c) Upon request of the Contractor, the Contracting Officer must ascertain the facts and extent of the failure. If the Contracting Officer determines that any failure to perform results from one or more of the causes above, the delivery schedule, or completion time for construction, must be revised, subject to the rights of the Government under the termination clause of this contract.

(End of clause)

[FR Doc. 2026–12562 Filed 6–22–26; 8:45 am]

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Part VII

Department of Transportation

Federal Aviation Administration

Operating Limitations at John F. Kennedy International Airport; Extension of Order; Operating Limitations at New York LaGuardia Airport; Extension of Order; Operating Limitations at Newark Liberty International Airport; Extension of Order; Submission Deadline for Schedule Information for Chicago O'Hare International Airport, John F. Kennedy International Airport, Los Angeles International Airport, Newark Liberty International Airport, and San Francisco International Airport for the Winter 2026/2027 Scheduling Season; Notice of submission deadline; Staffing-Related Relief Concerning Operations at Ronald Reagan Washington National Airport, John F. Kennedy International Airport, and LaGuardia Airport, October 25, 2026, Through March 27, 2027 (Winter 2026/2027), and March 28, 2027, Through October 30, 2027 (Summer 2027); Limited Waiver of the Slot Usage Requirement at DCA, JFK, and LGA.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Operating Limitations at Newark Liberty International Airport

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

ACTION: Extension to order.

SUMMARY: This action extends the order limiting the number of scheduled aircraft operations at Newark Liberty International Airport (EWR), which was most recently extended on September 29, 2025, by approximately one year, through October 30, 2027.

DATES: This action is effective on October 25, 2026.

ADDRESSES: If you wish to review the background documents or comments received in this proceeding, you may go to *http://www.regulations.gov* at any time and follow the online instructions for accessing the electronic docket. You may also go to the U.S. Department of Transportation's Docket Operations in Room W12–140 on the ground floor of the West Building at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Al Meilus, Slot Administration and Capacity Analysis, FAA ATO System Operations Services, AJR–G5, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–2822; email *7-awa-slotadmin@faa.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary

On June 10, 2025, FAA issued a final order limiting operations at EWR (''the June 2025 order'').[1] The June 2025 order was set to expire on December 31, 2025, aligned with the expected completion of runway construction projects. On August 12, 2025, FAA published a notice that invited comments on its proposal to extend the June 2025 order.[2] Air Traffic Controller staffing levels at EWR did not materially change immediately after the May 2025 delay reduction meetings, necessitating consideration of an extension. FAA issued an extension of the order on September 29, 2025, (''the September 2025 order'') and amended the operating limitations to 36 arrivals and departures per hour, or 72 hourly operations total.[3] This reflected the manageable rate of operations at EWR upon the completion of runway construction with the level of staffing at the airport at the time.

Now, FAA issues this one-year extension of the September 2025 order to address continued staffing deficiencies at EWR and to provide additional time for controller onboarding and training. Although FAA has improved its staffing pipeline across the national airspace system (NAS), the level of certified professional air traffic controllers (CPCs) will not significantly improve before close of the Summer 2027 scheduling season. As such, FAA has determined that current operating limitations order must be extended to ensure that operations are limited to a rate that is safely manageable for this level of CPCs on staff at EWR.

II. Authority

The U.S. Government has exclusive sovereignty over the airspace of the United States.[4] Under this broad authority, Congress has delegated to the Administrator extensive and plenary authority to ensure the safety of aircraft and the efficient use of the nation's navigable airspace. In this regard, the Administrator shall assign the use of navigable airspace by regulation or order under such terms, conditions and limitations as he may deem necessary to ensure its efficient use.[5] The Administrator may modify or revoke an assignment when required in the public interest.[6] Furthermore, in carrying out the Administrator's safety responsibilities under the statute, the Administrator must consider controlling the use of the navigable airspace and regulating civil operations in that airspace in the interest of the safety and efficiency of those operations.[7]

FAA's statutory authority to manage ''the efficient use of airspace'' encompasses its management of the nationwide system of air commerce and air traffic control. Ensuring the efficient use of the airspace means that FAA shall take all necessary steps to prevent extreme congestion at an airport from disrupting or adversely affecting the overall air traffic system for which FAA is responsible. Further, delays at EWR frustrate the efficient operations of air carriers transporting passengers to and from this important region. The impacts of delays at EWR spread throughout the NAS, resulting in substantial economic loss and inconvenience for the traveling public, air carriers, shippers, and others.

FAA finds that notice and comment procedures under 5 U.S.C. 553(b) are impracticable, unnecessary, and contrary to the public interest, as no significant substantive changes are included in this action.

III. Background

On April 6, 2016, FAA designated EWR as a Level 2 schedule-facilitated airport under the International Air Transportation Association (IATA) Worldwide Slot Guidelines (WSG), effective October 30, 2016.[8]

FAA does not allocate slots or impose minimum usage requirements at EWR. Level 2 schedule facilitation depends upon close and continuous discussions and voluntary agreement between carriers and FAA to reduce congestion. At Level 2 airports, FAA provides priority consideration for flights approved by FAA and operated by the carrier in those approved times in the prior scheduling season when FAA reviews proposed flights for facilitation in the next corresponding scheduling season. Only those flights that were actually operated as approved in a scheduling season generally receive priority for the next corresponding scheduling season. However, FAA notes that the usual Level 2 processes include flexibility for the facilitator to prioritize planned flights that are canceled in advance or on the day of the scheduled operation due to operational impacts beyond the control of the carrier. Previously, FAA implemented targeted scheduling limits at EWR in an effort to minimize delay and congestion. The current nominal targeted scheduling limit for EWR is 77 operations per hour.[9]

Air Traffic Controller Staffing Status

In July 2024, FAA transferred air traffic control (ATC) oversight for the Newark area, known as Area C, to the Philadelphia TRACON (PHL). PHL's current targeted staffing number remains at 114 Certified Professional Controllers (CPCs); the current number of onboard controllers at PHL is 74, representing 64.9 percent of the staffing target. Within PHL, Area C's targeted

[1] *See* Operating Limitations at Newark Liberty International Airport, Order Establishing Targeted Scheduling Limits, 90 FR 24482 (June 10, 2025).

[2] *See* Operating Limitations at Newark Liberty International Airport, Notice of Request for Comment, 90 FR 38881 (August 12, 2025).

[3] *See* Operating Limitations at Newark Liberty International Airport, 90 FR 46730 (September 29, 2025).

[4] 49 U.S.C. 40103.

[5] 49 U.S.C. 40103(b)(1), as previously codified in 49 U.S.C. App. § 307(a). Title 49 was recodified by Public Law 103–222, 108 Stat. 745 (1994). The textual revisions were not intended to result in substantive changes to the law. The recodification stated that the words in § 307(a) ''under such terms, conditions, and limitations as he may deem'' were omitted as surplus. H. Rpt. 103–180 (103d Cong., 1st Sess. 1993) at 262.

[6] *Id.*

[7] 49 U.S.C. 40101(d)(4).

[8] 81 FR 19861 (April 6, 2016).

[9] 89 FR 43501 (May 17, 2024).

staffing number is 46 CPCs. Currently, Area C has 28 CPCs, representing 60.8 percent of the staffing target. By the end of July 2026, six CPCs currently assigned to Area C will return to the New York Terminal Radar Approach Control facility (N90), which previously managed the Newark area. Eight additional CPCs that are temporarily assigned to Area C have extended their assignment to the end of July 2028. ATO is taking action to replace the six temporary CPCs. PHL now has a total of 28 trainees, with 19 trainees assigned to Area C. Overall, the staffing level of CPCs assigned to EWR has decreased slightly compared to last summer. As such, FAA finds that it is not in the interest of safety or reasonable to lift the operating limitations given the number of CPCs presently serving EWR. Although the staffing pipeline is improving, FAA does not expect the target number of CPCs assigned to EWR to be realized before the end of the Summer 2027 scheduling season.

EWR's Performance Under Operating Limitation Order

On-time performance for arrivals remains at 75 percent despite the implementation of the operating limitations.[10] As such, the existing operating limitations remain necessary in order to prevent a decrease in performance at the airport.

IV. Allocation Method

Allocations of timings will be made proportionally based on an air carriers' operations at EWR. For Winter 2026/2027 and Summer 2027, FAA will continue to limit arrivals and departures to no more than 36 arrivals and 36 departures per hour.

As with the September 2025 order, FAA will carry each carrier's reductions per hour from the Summer 2025 scheduling season at EWR to the extent practicable, to the Winter 2026/2027 and Summer 2027 schedules.

FAA will work to ensure the targeted schedule for each carrier each hour will be proportional to their approved schedules for each individual season, taking into account that schedules may be different from one season to the next.

V. Hourly Targeted Scheduling Limitations

From October 25, 2026, through October 30, 2027, the daily scheduling limit is 72 hourly operations, or 36 arrivals and departures each per hour. FAA will work with carriers to ensure more balanced operations within each 30-minute interval of each schedule-facilitated hour.

VI. Foreign Air Carriers

FAA will accept any returns from foreign carriers through the IATA process. FAA will also work with all carriers, including foreign air carriers, as usual in responding to requests and confirming times that are available subject to the limits described above.

VII. Unscheduled Operations and New Scheduled Operations

Based upon current projections and the ongoing temporary conditions in place, FAA does not expect to accommodate new scheduled operations at EWR. Permitting new scheduled operations could exacerbate the existing conditions and undo the purpose of these operating limitations, which is to achieve operational stability at EWR as training of additional staff continues.

FAA will continue to accommodate other unscheduled operations, such as cargo, charter, or nonscheduled foreign carrier operations, on a ''first come, first serve'' basis to the extent such operators can be accommodated at EWR. All requests must be submitted to and approved by the FAA Slot Administration Office at *7-awa-slotadmin@faa.gov.* In addition, these operations must also obtain approval from the EWR terminal to operate as appropriate. FAA encourages operators to utilize nearby airports to access the region while this Order is in effect.

VIII. Additional Operational Modifications

Based on FAA's experience with capacity-constrained airports, FAA anticipates that carriers may occasionally need to modify their schedules for operational or other reasons while this Order is in effect. Accordingly, this Order provides a mechanism through which such carriers can modify their schedules.

Carriers operating at EWR must obtain the Administrator's written approval before making a schedule change to outside the hourly window associated with an authorized timing.

FAA recognizes that there may be unexpected disruptions due to operation issues, weather, or other circumstances beyond the carriers' control. Since EWR is a Level 2 airport, FAA will work with the carriers on any additional relief needed to prioritize impacted operations for the purpose of establishing operational baselines for the next corresponding season.

IX. National Environmental Policy Act

On June 4, 2025, FAA prepared a categorical exclusion (CATEX) document applicable to the original order that is herein being extended. The CATEX relied upon FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures,* paragraphs 5–6.5(j), 5–6.6(d), and 5–6.6(f).[11] [12] On July 1, 2025, Secretary of Transportation Sean P. Duffy signed Department of Transportation (DOT) Order 5610.1D. Paragraph 18 of DOT Order 5610.1D states that an Operating Administration (OA) such as FAA ''may rely on any pre-existing EIS, EA, or determination that a [CATEX] applies to a given project'' if the actions are substantially the same. FAA has determined that the extension of the currently effective order is substantially the same as the original order for purposes of compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*

X. Order

Accordingly, with respect to flight operations at EWR, under the authority provided to the Secretary of Transportation and the FAA Administrator by 49 U.S.C. 40101, 40103, 40113, and 41722, it is hereby ordered that:

1. This Order modifies the targeted scheduling limit for arrivals and departures at EWR during the affected hours for the U.S. air carriers who operate at EWR as reflected by authorized scheduled timings. FAA will not accommodate authorized scheduled timings under this Order to any person or entity other than a certificated U.S. air carrier with appropriate economic authority and FAA operating authority under 14 CFR part 121, 129, or 135 (revised allocations based upon proportionality to air carriers that contributed timings during delay reduction meetings). This Order further affirms that FAA will not accommodate new requests or re-timings into schedule-facilitated hours with 36 arrivals and 36 departures if such a request will result in exceeding the hourly limit (''no backfills''). Finally,

[10] Cirium data for the period June 6, 2025, through March 7, 2026.

[11] On June 30, 2025, the FAA issued an updated environmental order, FAA Order 1050.1G, *FAA National Environmental Policy Act Implementing Procedures.* However, the CATEX was prepared prior to the effective date of the new order. The CATEX categories referenced above are located in paragraphs B–2.5(j), B–2.6(d), and B–2.6(f) of the updated order.

[12] FAA Order 1050.1F has subsequently been replaced by FAA Order 1050.1G, ''Environmental Impacts: Policies and Procedures.'' Paragraphs 5–6.5(j), 5–6.6(d), and 5–6.6(f) from FAA Order 1050.1F, referenced in this section, can now be found in FAA Order 1050.1G, paragraphs B–2.5.j, B–2.6.d, and B–2.6.f.

FAA will accommodate foreign air carrier requests and unscheduled operations in certain hours with availability throughout the schedule-facilitated day, on a ''first come, first serve'' basis. All requests must be submitted to and approved by the FAA Slot Administration Office at *7-awa-slotadmin@faa.gov.* The FAA Vice President, System Operations Services, is the final decision-maker for determinations under this paragraph. The provisions in paragraphs 2 through 11 below apply to the following:

a. All U.S. air carriers conducting scheduled operations at EWR as of the date of this Order, any U.S. air carrier that operates under the same designator code as such carrier, and any air carrier that has or enters into a codeshare agreement with such carrier.

b. All U.S. air carriers operating scheduled or regularly conducted commercial service to EWR while this Order is in effect.

2. This Order establishes daily targeted scheduled arrivals and departures at EWR from 6 a.m. through 10:59 p.m., Eastern Time, until October 30, 2027.

3. This Order takes effect on October 25, 2026, and expires on October 30, 2027.

4. The following procedures apply to authorized scheduled timings at EWR:

a. Scheduled arrivals and departures should not exceed 36 per hour each.

b. The Administrator may change the operating limits if he determines that capacity exists to accommodate additional operations without a significant increase in delays. If delays substantially increase due to circumstances adversely impacting operations, the Administrator may further reduce the operating limitations.

5. Carriers will retain historic priority for the next corresponding season for authorized scheduled timings reduced or re-timed under the delay reduction proceedings.

6. A carrier operating an authorized scheduled timing may request the Administrator's approval to move any arrival or departure scheduled from 6 a.m. through 10:59 p.m. to another half hour within that period. Except as provided in paragraph seven, the carrier must receive the written approval of the Administrator, or his delegate, prior to conducting any scheduled arrival or departure. All requests to move an authorized scheduled timing must be submitted to the FAA Slot Administration Office at *7-AWA-Slotadmin@faa.gov* and must come from a designated representative of the carrier.

7. Notice of a swap must be submitted in writing to the FAA Slot Administration Office at *7-AWA-Slotadmin@faa.gov* and must come from a designated representative of each carrier. FAA must confirm and approve these exchanges in writing prior to the effective date of the exchange.

8. Any authorized scheduled timing not used during the Winter 2026/2027 or Summer 2027 scheduling seasons will not be prioritized for the purposes of establishing an operational baseline for the next corresponding season unless the carrier notifies FAA of a request for prioritization. FAA will review these requests. FAA will respond to the carrier with an acknowledgement of the request and a determination.

9. If FAA determines that a further reduction in targeted scheduled operations is needed, FAA may call an additional scheduling reduction meeting pursuant to 49 U.S.C. 41722.

10. Carriers may voluntarily return up to ten percent of their operations for the Winter 2026/2027 and the Summer 2027 scheduling seasons in addition to the reductions assigned under the Order. This relief includes operations between EWR and Ronald Reagan Washington National Airport (DCA). Carriers requesting this relief must submit returned operations to the FAA Slot Administration Office at *7-AWA-Slotadmin@faa.gov.* Returned operations will be treated as operated for the purposes of establishing an operational baseline for the next corresponding season. FAA may reallocate these operations on a non-historic basis for the duration of this voluntary relief so long as the reallocation does not exceed the hourly operating limitation. This relief is not available for any DCA slots granted by the DOT pursuant to section 505 of the FAA Reauthorization Act of 2024 (Pub. L. 118–63).

11. FAA may enforce this Order through an enforcement action seeking a civil penalty under 49 U.S.C. 46301(a). A carrier that is not a small business as defined in the Small Business Act, 15 U.S.C. 632, will be liable for a civil penalty of up to $75,000 for every flight it operates above the limits set forth in this Order. A carrier that is a small business as defined in the Small Business Act will be liable for a civil penalty of up to $16,630 for every flight it operates above the limits set forth in this Order. FAA also could file a civil action in U.S. District Court, under 49 U.S.C. 46106, 46107, seeking to enjoin any air carrier from violating the terms of this Order.

12. FAA may modify or withdraw any provision in this Order on its own or on application by any carrier for good cause shown.

Issued in Washington, DC, on June 18, 2026.

William McKenna,

Chief Counsel.

Bryan Bedford,

Administrator.

[FR Doc. 2026–12589 Filed 6–18–26; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. FAA–2007–29320]

Operating Limitations at John F. Kennedy International Airport

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

ACTION: Extension of order.

SUMMARY: This action extends the Order Limiting Operations at John F. Kennedy International Airport (JFK) published on January 18, 2008, and most recently extended on October 27, 2024. The Order remains effective until October 28, 2028.

DATES: This action is effective on October 25, 2026.

ADDRESSES: Requests may be submitted by mail to Slot Administration Office, System Operations Services, AJR–0, Room 300W, 800 Independence Avenue SW, Washington, DC 20591, or by email to: *7-awa-slotadmin@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Al Meilus, Manager, Slot Administration and Capacity Analysis, AJR–G, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–2822; email *Al.Meilus@faa.gov.*

SUPPLEMENTARY INFORMATION:

Availability of Relevant Documents

You may obtain an electronic copy of this notice using the internet by:

(1) Searching the Federal eRulemaking Portal at *www.regulations.gov;*

(2) Visiting the FAA's Dynamic Regulatory System website at *https://drs.faa.gov;* or

(3) Accessing the Government Publishing Office's website at *www.GovInfo.gov.*

You also may obtain a copy by sending a request to the Federal Aviation Administration, Capacity Analysis and Slot Administration Office, AJR–G5, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–2822. Make sure to identify docket number FAA–2007–29320.

Background

FAA historically limited the number of arrivals and departures at JFK through the implementation of the High Density Rule (HDR).[1] By statute enacted in April 2000 (Aviation Investment and Reform Act for the 21st Century (AIR–21)), operations were added at JFK through provisions permitting exemptions for new entrant carriers and flights to small and non-hub airports.[2] The HDR's applicability to JFK operations terminated as of January 1, 2007.[3] With the AIR–21 exemptions and the HDR phase-out, some air carriers serving JFK significantly increased their scheduled operations throughout the day and retimed existing flights. This resulted in scheduled demand in peak hours that exceeded the airport's capacity and caused significant congestion and delay.

In October 2007, to mitigate congestion and delays at the airport, FAA held a delay reduction meeting with scheduled carriers operating at JFK.[4] Subsequently, in January 2008, FAA placed temporary limits on scheduled operations at JFK.[5] FAA extended the January 18, 2008 Order placing temporary limits on scheduled operations at JFK on October 7, 2009, April 4, 2011, May 14, 2013, March 26, 2014, May 24, 2016, as corrected June 21, 2016, September 17, 2018, September 18, 2020, October 28, 2022, and May 13, 2024.[6]

Under this Order, as previously amended, FAA: (1) maintains the current hourly limits of 81 scheduled operations at JFK during the slot-controlled hours; (2) imposes an 80 percent minimum usage requirement for Operating Authorizations (OAs)[7] with defined exceptions; (3) provides a mechanism for withdrawal of OAs for FAA operational reasons; (4) establishes procedures to allocate withdrawn, surrendered, or unallocated OAs; and (5) allows for trades and leases of OAs for consideration for the duration of the Order, with FAA approval.

The reasons for retaining the Order have not changed appreciably since its initial issuance. Over the years, demand for access to JFK has remained high. Multiple new entrants and other incumbent airlines have requested new peak period operations and retiming of existing flights to higher demand hours. The FAA has determined that the operational limitations imposed by this Order remain necessary. Since 2024, when this Order was last extended, allocated slots in the busiest hours were generally at the limits imposed by this Order. For the Summer 2026 scheduling season, the initial requests for historic slots and retiming of existing slots continue to show demand is higher than the scheduling limits in multiple hours. Without the operational limitations imposed by the Order, FAA expects severe congestion-related delays would occur at JFK with ripple effects at other airports throughout the National Airspace System (NAS).

Accordingly, FAA is extending the expiration date of this Order until October 28, 2028. This expiration date coincides with the extended expiration date for the Order limiting operations at LGA, as also extended by action published elsewhere in this issue of the **Federal Register**. FAA will continue to monitor demand, performance, and runway capacity at JFK, to determine if changes are warranted during the effective period of this Order. FAA continues to study and analyze airport runway configurations, capacity, delays with alternative demand scenarios, as well as consider a number of the complexities associated with JFK operations, including interaction with other nearby airports and operational growth limitations due to the busy airspace surrounding the New York Area. FAA, in coordination with the Office of the Secretary of Transportation (OST), will also continue to consider potential rulemaking to codify policies for slot-controlled airports.

FAA finds that notice and comment procedures under 5 U.S.C. 553(b) are impracticable, unnecessary, and contrary to the public interest, as carriers have begun planning schedules for the Winter 2026/2027 scheduling season and no changes are included in this action. The provisions of this Order have been in place largely unchanged through multiple extensions over the course of many years and are familiar to scheduled carriers operating at JFK. For these reasons, the FAA also finds that it is impracticable and contrary to the public interest to delay the effective

[1] 33 FR 17896 (Dec. 3, 1968). The FAA codified the rules for operating at high density traffic airports in 14 CFR part 93, subpart K. The HDR required carriers to hold a reservation, which came to be known as a ''slot,'' for each takeoff or landing under instrument flight rules at the high density traffic airports.

[2] *Aviation Investment and Reform Act for the 21st Century (AIR–21), Public Law* 106–181 (Apr. 5, 2000), 49 U.S.C. 41715(a)(2).

[3] *Id.*

[4] *Operating Limitations at New York's John F. Kennedy International Airport, Notice of Meeting and Request for Information,* 72 FR 59579 (Oct. 22, 2007).

[5] *Operating Limitations at John F. Kennedy International Airport; Order Limiting Scheduled Operations at John F. Kennedy International Airport,* 73 FR 3510 (Jan. 18, 2008), as amended by *Operating Limitations at John F. Kennedy International Airport; Notice of Order,* 73 FR 8737 (Feb. 14, 2008).

[6] 74 FR 51650; 76 FR 18620 (April 4, 2011); 78 FR 28276; 79 FR 16854; 81 FR 32636; 81 FR 40167; 83 FR 46865; 85 FR 58258; 87 FR 65161; and, 89 FR 41486.

[7] Also referred to as ''slots''.

date of this action under 5 U.S.C. 553(d).

This Order is the equivalent of limited local rules as referenced in the Worldwide Slot Guidelines (WSG) published by the International Air Transport Association (IATA) and takes precedence over the WSG where there are differences.[8] At JFK, FAA follows the WSG in many respects such as new entrant priority [9] and consideration of schedule constraints such as terminal, gate, parking, customs and immigration, curfews, and similar operational factors.

The Amended Order

The Order, as previously amended, is recited below in its entirety.

1. This Order continues the process for assigning operating authority to conduct an arrival or a departure at JFK during the affected hours to any certificated U.S. air carrier or foreign air carrier. The FAA will not assign operating authority under this Order to any person or entity other than a certificated U.S. or foreign air carrier with appropriate economic authority and with operating authority from FAA under 14 CFR part 121, 129, or 135. This Order applies to the following:

a. All U.S. air carriers and foreign air carriers conducting scheduled operations at JFK as of the date of this Order, any U.S. air carrier or foreign air carrier that operates under the same designator code as such a carrier, and any air carrier or foreign-flag carrier that has or enters into a codeshare agreement with such a carrier.

b. All U.S. air carriers or foreign air carriers initiating scheduled or regularly conducted commercial service to JFK while this Order is in effect.

c. The Vice President, System Operations Services, in coordination with the Chief Counsel of the FAA, is the final decision maker for determinations under this Order.

2. This Order governs scheduled arrivals and departures at JFK from 6 a.m. through 10:59 p.m., Eastern Time, Sunday through Saturday.

3. This Order took effect on March 30, 2008, and will expire October 28, 2028.

4. Under the authority provided to the Secretary of Transportation and the FAA Administrator by 49 U.S.C. 40101, 40103, and 40113, we hereby order that:

a. No U.S. air carrier or foreign air carrier initiating or conducting scheduled or regularly conducted commercial service at JFK may conduct such operations without an Operating Authorization assigned by the FAA.

b. Except as otherwise authorized by the FAA based on historic precedence, scheduled U.S. air carrier and foreign air carrier arrivals and departures will not exceed 81 per hour from 6 a.m. through 10:59 p.m., Eastern Time.

c. The Administrator may change the limits if the Administrator determines that capacity exists to accommodate additional operations without a significant increase in delays.

5. For administrative tracking purposes only, the FAA will assign an identification number to each Operating Authorization.

6. A carrier holding an Operating Authorization may request the Administrator's approval to move any arrival or departure scheduled from 6:00 a.m. through 10:59 p.m. to another half hour within that period. Except as provided in paragraph 7, the carrier must receive the written approval of the Administrator, or his delegate, prior to conducting any adjusted arrival or departure. All requests to move an allocated Operating Authorization must be submitted to the FAA Slot Administration Office, email *7-AWA-Slotadmin@faa.gov,* and must come from a designated representative of the carrier. If the FAA cannot approve a carrier's request to move a scheduled arrival or departure, the carrier may then apply for a trade in accordance with paragraph 7.

7. For the duration of this Order, a carrier may enter into a lease or trade of an Operating Authorization to another carrier for any consideration. Notice of a trade or lease under this paragraph must be submitted in writing to the FAA Slot Administration Office, email *7-AWA-Slotadmin@faa.gov,* must come from a designated representative of each carrier, and is subject to FAA review. The FAA must confirm and approve these transactions in writing prior to the effective date of the transaction. The FAA expects to approve transfers between carriers under the same marketing control up to five business days after the actual operation, but only to accommodate operational disruptions that occur on the same day of the scheduled operation. The FAA's approval of a trade or lease does not constitute a commitment by the FAA to grant the associated historical rights to any operator in the event that slot controls continue at JFK after this Order expires.

8. A carrier may not buy, sell, trade, or transfer an Operating Authorization, except as described in paragraph 7.

9. Historical rights to Operating Authorizations and withdrawal of those rights due to insufficient usage will be determined on a seasonal basis and in accordance with the schedule approved by the FAA prior to the commencement of the applicable season.

a. For each day of the week that the FAA has approved an operating schedule, any Operating Authorization not used at least 80% of the time over the time-frame authorized by the FAA under this paragraph will be withdrawn by the FAA for the next applicable season except:

i. The FAA will treat as used any Operating Authorization held by a carrier on Thanksgiving Day, the Friday following Thanksgiving Day, and the period from December 24 through the first Saturday in January.

ii. The Administrator of the FAA may waive the 80% usage requirement in the event of a highly unusual and unpredictable condition which is beyond the control of the carrier and which affects carrier operations for a period of five consecutive days or more.

b. Each carrier holding an Operating Authorization must forward in writing to the FAA Slot Administration Office a list of all Operating Authorizations held by the carrier along with a listing of the Operating Authorizations and:

i. The dates within each applicable season it intends to commence and complete operations.

A. For each winter scheduling season, the report must be received by the FAA no later than August 15 during the preceding summer.

B. For each summer scheduling season, the report must be received by the FAA no later than January 15 during the preceding winter.

ii. The completed operations for each day of the applicable scheduling season:

A. No later than September 1 for the summer scheduling season.

B. No later than January 15 for the winter scheduling season.

iii. The completed operations for each day of the scheduling season within 30 days after the last day of the applicable scheduling season.

10. In the event that a carrier surrenders to the FAA any Operating Authorization assigned to it under this Order or if there are unallocated Operating Authorizations, the FAA will determine whether the Operating Authorizations should be reallocated. The FAA may temporarily allocate an Operating Authorization at its

[8] FAA continues to generally apply edition 9 of the predecessor Worldwide Slot Guidelines (WSG) (Jan. 1, 2019) to inform its slot administration decisions at JFK, available at: *www.regulations.gov/document/FAA–2007–29320–0058.*

[9] Under current policy and procedures, the FAA applies the definitions for ''new entrant'' as set forth in the WSG version 9 (Jan. 1, 2019), which is ''an airline requesting a series of slots at an airport on any day where, if the airline's request were accepted, it would hold fewer than 5 slots at that airport on that day.''

discretion. Such temporary allocations will not be entitled to historical status for the next applicable scheduling season under paragraph 9.

11. The FAA considers the following factors and priorities in allocating Operating Authorizations, which the FAA has determined are available for reallocation—

a. Historical requests for allocation of an Operating Authorization in the same time;

b. New entrant status;

c. Retiming of historic Operating Authorizations;

d. Extension of a seasonal Operating Authorization to year-round service;

e. The effective period of operation;

f. The extent and regularity of intended use with priority given to year-round services;

g. The operational impacts of scheduled demand, including the hourly and half-hour demand and the mix of arrival and departure flights; and,

h. Airport facility constraints.

Any carrier that is not approved for allocation of an Operating Authorization by the FAA may request it be placed on a waiting list for consideration should an Operating Authorization in the requested time become available during that scheduling season.

12. If the FAA determines that an involuntary reduction in the number of allocated Operating Authorizations is required to meet operational needs, such as reduced airport capacity, the FAA will conduct a weighted lottery to withdraw Operating Authorizations to meet a reduced hourly or half-hourly limit for scheduled operations. The FAA will provide at least 45 days notice unless otherwise required by operational needs. Any Operating Authorization that is withdrawn or temporarily suspended will, if reallocated, be reallocated to the carrier from which it was taken, provided that the carrier continues to operate scheduled service at JFK.

13. The FAA may enforce this Order through an enforcement action seeking a civil penalty under 49 U.S.C. 46301(a). The FAA or Department of Justice also could file a civil action in U.S. District Court, under 49 U.S.C. 46106 or 46107, respectively, seeking to enjoin any carrier from violating the terms of this Order.

14. The FAA may modify or withdraw any provision in this Order on its own or on application by any carrier for good cause shown.

Issued in Washington, DC, on June 18, 2026.

Gian Burdhimo,

Acting Deputy Vice President, System Operations Services.

[FR Doc. 2026–12591 Filed 6–18–26; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. FAA–2006–25755]

Operating Limitations at New York LaGuardia Airport

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

ACTION: Extension of order.

SUMMARY: This action extends the Order Limiting Operations at New York LaGuardia Airport (LGA) published on December 27, 2006, as most recently extended May 13, 2024. The Order remains effective until October 28, 2028.

ADDRESSES: Requests may be submitted by mail to Slot Administration Office, System Operations Services, AJR–0, Room 300W, 800 Independence Avenue SW, Washington, DC 20591, or by email to: *7-awa-slotadmin@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Al Meilus, Manager, Slot Administration and Capacity Analysis, AJR–G, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–2822; email *Al.Meilus@faa.gov.*

SUPPLEMENTARY INFORMATION:

Availability of Relevant Documents

You may obtain an electronic copy of this notice using the internet by:

(1) Searching the Federal eRulemaking Portal at *www.regulations.gov;*

(2) Visiting the FAA's Dynamic Regulatory System website at *https://drs.faa.gov;* or

(3) Accessing the Government Publishing Office's website at *www.GovInfo.gov.*

You also may obtain a copy by sending a request to the Federal Aviation Administration, Capacity Analysis and Slot Administration Office, AJR–G5, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–2822. Make sure to identify docket number FAA–2006–25755.

Background

Before 2007, the FAA limited the number of arrivals and departures at LGA pursuant to the High Density Rule (HDR). The Aviation Investment and Reform Act for the 21st Century (AIR–21), enacted in April 2000, directed the phase-out of the HDR at LGA on January 1, 2007.[1] The FAA issued the Order Limiting Operations at New York LaGuardia Airport on December 27, 2006, adopting temporary limits on scheduled and unscheduled operations at LGA to address congestion at the airport upon the termination of the HDR.[2]

At the time, the order was adopted on a temporary basis as the FAA noted it was pending the completion of rulemaking to replace the HDR that would address long-term limits and related policies. On October 10, 2008, the FAA published the Congestion Management Rule for LaGuardia Airport, which would have become effective on December 9, 2008.[3] That rule was stayed by the U.S. Court of Appeals for the District of Columbia Circuit and subsequently rescinded by the FAA.[4]

Meanwhile, the December 27, 2006, Order was amended on November 8, 2007, and August 19, 2008.[5] Under the amended Order, the FAA limited scheduled and unscheduled operations at the airport to prevent congestion-related delays associated with LaGuardia's limited runway capacity. The FAA extended the expiration date of the amended Order on October 7, 2009, April 4, 2011, May 14, 2013, March 27, 2014, May 25, 2016, September 18, 2018, September 18, 2020, October 28, 2022, and May 13, 2024.[6]

[1] AIR–21, Public Law 106–181 (Apr. 5, 2000), codified at 49 U.S.C. 41715(a)(2).

[2] *Operating Limitations at New York LaGuardia Airport; Notice of Order,* 71 FR 77854 (Dec. 27, 2006).

[3] *Congestion Management Rule for LaGuardia Airport,* 73 FR 60574 (Oct. 10, 2008), amended by *Congestion Management Rule for LaGuardia Airport; Correction,* 73 FR 66517 (Nov. 10, 2008).

[4] *Congestion Management Rule for LaGuardia Airport,* 74 FR 52132 (Oct. 9, 2009).

[5] *Operating Limitations at New York LaGuardia Airport; Notice of Order,* 72 FR 63224 (Nov. 8, 2007); *Operating Limitations at New York LaGuardia Airport; Notice of Order,* 73 FR 48428 (Aug. 19, 2008).

[6] *Operating Limitations at LaGuardia Airport,* 74 FR 51653 (Oct. 7, 2009); *Operating Limitations at New York LaGuardia Airport,* 76 FR 18616 (April 4, 2011), amended by *Operating Limitations at New York LaGuardia Airport; Technical Amendment,* 77 FR 30585 (May 23, 2012); *Operating Limitations at New York LaGuardia Airport,* 78 FR 28278 (May 14, 2013); *Operating Limitations at New York LaGuardia Airport,* 79 FR 17222 (March 27, 2014); *Operating Limitations at New York LaGuardia Airport,* 81 FR 33126 (May 25, 2016); *Operating Limitations at New York LaGuardia Airport,* 83 FR 47065 (Sept. 18, 2018); *Operating Limitations at New York LaGuardia Airport,* 85 FR 58255 (Sept.

Continued

Under this Order, as previously amended, the FAA (1) maintains the current hourly limits of 71 for scheduled operations and three for unscheduled operations at LGA during the slot-controlled hours; (2) imposes an 80 percent minimum usage requirement for Operating Authorizations (OAs) [7] with defined exceptions; (3) provides a mechanism for withdrawal of OAs for FAA operational reasons; (4) provides for a lottery to reallocate withdrawn, surrendered, or unallocated OAs; and (5) allows for trades and leases of OAs for consideration for the duration of the Order, with FAA approval.

The reasons for retaining the Order have not changed appreciably since its initial issuance. Runway capacity at LGA remains limited, while demand for access to LGA remains high. The FAA has determined that the operational limitations imposed by this Order are appropriate and necessary. Without the operational limitations imposed by this Order, the FAA expects severe congestion-related delays due to the anticipated demand of new operations and the retiming of existing flights into more desirable hours. During the effective period of this Order, the FAA will continue to monitor demand, performance, and runway capacity at LGA, to determine if changes are warranted.

In 2009, the FAA reduced the scheduling limits under this Order from 75 operations per hour to 71 per hour to provide an opportunity to improve operations.[8] The FAA did not require a reduction of historic slots to reach the new hourly limits. Instead, historic allocations were honored. However, slots voluntarily returned or withdrawn per the terms of the Order are not reallocated if the hourly totals exceed the revised 71 hourly scheduling limit. As a result of this historic practice, between 72 and 75 slots remain authorized in most slot-controlled hours. The FAA, in coordination with the Office of the Secretary of Transportation (OST), will continue to consider potential rulemaking to codify policies for slot-controlled airports.

Accordingly, the FAA is extending the expiration date of this Order until October 28, 2028. This expiration date coincides with the extended expiration date for the Order limiting operations at JFK, as also extended by action published elsewhere in this issue of the **Federal Register**. The FAA will continue to monitor demand, performance, and runway capacity at LGA, to determine if changes are warranted during the effective period of this Order. The FAA continues to study and analyze airport runway configurations, capacity, delays with alternative demand scenarios, as well as consider a number of the complexities associated with LGA operations, including interaction with other nearby airports and operational growth limitations due to the busy airspace surrounding the New York Area.

The FAA finds that notice and comment procedures under 5 U.S.C. 553(b) are impracticable, unnecessary, and contrary to the public interest, as carriers have begun planning schedules for the Winter 2026/2027 scheduling season and no changes are included in this action. The provisions of this Order have been in place largely unchanged through multiple extensions over the course of many years and are familiar to scheduled carriers operating at LGA. For these reasons, the FAA also finds that it is impracticable and contrary to the public interest to delay the effective date of this action under 5 U.S.C. 553(d).

The Amended Order

The Order, as previously amended, is recited below in its entirety.

A. Scheduled Operations

With respect to scheduled operations at LaGuardia:

1. The Order governs scheduled arrivals and departures at LaGuardia from 6 a.m. through 9:59 p.m., Eastern Time, Monday through Friday and from 12 noon through 9:59 p.m., Eastern Time, Sunday. Seventy-one (71) Operating Authorizations are available per hour and will be assigned by the FAA on a 30-minute basis. The FAA will permit additional, existing operations above this threshold; however, the FAA will retire Operating Authorizations that are surrendered to the FAA, withdrawn for non-use, or unassigned during each affected hour until the number of Operating Authorizations in that hour reaches seventy-one (71).

2. The Order took effect on January 1, 2007, and will expire on October 28, 2028.

3. The FAA will assign operating authority to conduct an arrival or a departure at LaGuardia during the affected hours to the air carrier that holds equivalent slot or slot exemption authority under the High Density Rule of FAA slot exemption rules as of January 1, 2007; to the primary marketing air carrier in the case of AIR–21 small hub/non-hub airport slot exemptions; or to the air carrier operating the flights as of January 1, 2007, in the case of a slot held by a non carrier. The FAA will not assign operating authority under the Order to any person or entity other than a certificated U.S. or foreign air carrier with appropriate economic authority and with operating authority from FAA under 14 CFR part 121, 129 or 135.

4. For administrative tracking purposes only, the FAA will assign an identification number to each Operating Authorization.

5. An air carrier may lease or trade an Operating Authorization to another carrier for any consideration, not to exceed the duration of the Order. Notice of a trade or lease under this paragraph must be submitted in writing to the FAA Slot Administration Office, email *7-AWA-Slotadmin@faa.gov,* must come from a designated representative of each carrier, and is subject to FAA review. The FAA must confirm and approve these transactions in writing prior to the effective date of the transaction. However, the FAA expects to approve transfers between carriers under the same marketing control up to 5 business days after the actual operation. This post-transfer approval is limited to accommodate operational disruptions that occur on the same day of the scheduled operation. The FAA's approval of a trade or lease does not constitute a commitment by the FAA to grant the associated historical rights to any operator in the event that slot controls continue at LGA after this Order expires.

6. Each air carrier holding an Operating Authorization must forward in writing to the FAA Slot Administration Office a list of all Operating Authorizations held by the carrier along with a listing of the Operating Authorizations actually operated for each day of the two-month reporting period, within 14 days after the last day of the two-month reporting period beginning January 1 and every two months thereafter. Any Operating Authorization not used at least 80 percent of the time over a two-month period will be withdrawn by the FAA except:

A. The FAA will treat as used any Operating Authorization held by an air carrier on Thanksgiving Day, the Friday following Thanksgiving Day, and the period from December 24 through the first Saturday in January.

B. The FAA will treat as used any Operating Authorization obtained by an air carrier through a lottery under

18, 2020); *Operating Limitations at New York LaGuardia Airport,* 87 FR 65159 (Oct. 28, 2022); *Operating Limitations at New York LaGuardia Airport,* 89 FR 41484 (May 13, 2024).

[7] Also known as ''slots''.

[8] *Operating Limitations at New York's LaGuardia Airport; Notice of Order,* 74 FR 2646 (Jan. 15, 2009).

paragraph 7 for the first 120 days after allocation in the lottery.

C. The Administrator of the FAA may waive the 80 percent usage requirement in the event of a highly unusual and unpredictable condition which is beyond the control of the air carrier and which affects carrier operations for a period of five consecutive days or more.

7. In the event that Operating Authorizations are withdrawn for nonuse, are surrendered to the FAA, or are unassigned, the FAA will determine whether any of the available Operating Authorizations should be reallocated. If so, the FAA will conduct a lottery using the provisions specified under 14 CFR 93.225. The FAA may retime an Operating Authorization prior to reallocation in order to address operational needs.

8. If the FAA determines that a reduction in the number of allocated Operating Authorizations is required to meet operational needs, such as reduced airport capacity, the FAA will conduct a weighted lottery to withdraw Operating Authorizations to meet a reduced hourly or half-hourly limit for scheduled operations. The FAA will provide at least 45 days' notice unless otherwise required by operational needs. Any Operating Authorization that is withdrawn or temporarily suspended will, if reallocated, be reallocated to the air carrier from which it was taken, provided that the air carrier continues to operate scheduled service at LaGuardia.

9. The Vice President, System Operations Services, in coordination with the Chief Counsel of the FAA, is the final decision maker for determinations under this Order.

10. The FAA may modify or withdraw any provision in this Order on its own or on application by any carrier for good cause shown.

B. Unscheduled Operations [9]

With respect to unscheduled flight operations at LaGuardia, the FAA adopts the following:

1. The Order applies to all operators of unscheduled flights, except helicopter operations, at LaGuardia from 6 a.m. through 9:59 p.m., Eastern Time, Monday through Friday and from 12 noon through 9:59 p.m., Eastern Time, Sunday.

2. The Order took effect on January 1, 2007, and will expire on October 28, 2028.

3. No person can operate an aircraft other than a helicopter to or from LaGuardia unless the operator has received, for that unscheduled operation, a reservation that is assigned by the David J. Hurley Air Traffic Control System Command Center's Airport Reservation Office (ARO), or for unscheduled visual flight rule operations, received clearance from ATC. Additional information on procedures for obtaining a reservation is available via the internet at *http://www.fly.faa.gov/ecvrs*.

4. Three (3) reservations are available per hour for unscheduled operations at LaGuardia. The ARO will assign reservations on a 30-minute basis.

5. The ARO receives and processes all reservation requests. Reservations are assigned on a ''first-come, first-served'' basis, determined as of the time that the ARO receives the request. A cancellation of any reservation that will not be used as assigned is required.

6. Filing a request for a reservation does not constitute the filing of an instrument flight rules (IFR) flight plan, as separately required by regulation. After the reservation is obtained, an IFR flight plan can be filed. The IFR flight plan must include the reservation number in the ''remarks'' section.

7. Air Traffic Control will accommodate declared emergencies without regard to reservations. Nonemergency flights in direct support of national security, law enforcement, military aircraft operations, or public aircraft operations will be accommodated above the reservation limits with the prior approval of the Vice President, System Operations Services, Air Traffic Organization. Procedures for obtaining the appropriate reservation for such flights are available via the internet at *http://www.fly.faa.gov/ecvrs*.

8. Notwithstanding the limits in paragraph 4, if the Air Traffic Organization determines that air traffic control, weather, and capacity conditions are favorable and significant delay is not likely, the FAA can accommodate additional reservations over a specific period. Unused operating authorizations can also be temporarily made available for unscheduled operations. Reservations for additional operations are obtained through the ARO.

9. Reservations cannot be bought, sold, or leased.

10. The Vice President, System Operations Services, in coordination with the Chief Counsel of the FAA, is the final decision maker for determinations under this Order.

11. The FAA may modify or withdraw any provision in this Order on its own or on application by any carrier for good cause shown.

C. Enforcement

The FAA may enforce the Order through an enforcement action seeking a civil penalty under 49 U.S.C. 46301(a). The FAA or Department of Justice also could file a civil action in U.S. District Court, under 49 U.S.C. 46106 or 46107, respectively, seeking to enjoin any carrier from violating the terms of the Order.

Issued in Washington, DC, on June 18, 2026.

Gian Burdhimo,

Acting Deputy Vice President, System Operations Services.

[FR Doc. 2026–12592 Filed 6–18–26; 4:15 pm]

BILLING CODE 4910–13–P

[9] Unscheduled operations are operations other than those regularly conducted by an air carrier between LaGuardia and another service point. Unscheduled operations include general aviation, public aircraft, military, irregular charter, ferry, and positioning flights. Regularly conducted commercial flights require an Operating Authorization and may not use unscheduled operation reservations. Helicopter operations are excluded from the reservation requirement. Unscheduled flights operating under visual flight rules (VFR) may be accommodated by the local air traffic control facilities and are not included in the hourly limits.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Staffing-Related Relief Concerning Operations at Ronald Reagan Washington National Airport, John F. Kennedy International Airport, and LaGuardia Airport, October 25, 2026, Through March 27, 2027 (Winter 2026/2027), and March 28, 2027, Through October 30, 2027 (Summer 2027)

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

ACTION: Limited Waiver of the Slot Usage Requirement at DCA, JFK, and LGA.

SUMMARY: This action extends the Staffing-Related Relief Concerning Operations at Ronald Reagan Washington National Airport, John F. Kennedy International Airport, and LaGuardia Airport, initially published on September 20, 2023, and extended to October 25, 2026, through March 27, 2027 (Winter 2026/2027), and March 28, 2027, through October 30, 2027 (Summer 2027). The limited waiver is effective until October 30, 2027, and does not apply to any slots granted by the Department of Transportation pursuant to Section 502 of the FAA Reauthorization Act of 2024.

DATES: This action is effective on June 23, 2026.

ADDRESSES: Requests may be submitted by mail to Slot Administration Office, System Operations Services, AJR–0, Room 300W, 800 Independence Avenue SW, Washington, DC 20591, or by email to: *7-awa-slotadmin@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Al Meilus, Slot Administration and Capacity Analysis, FAA ATO System Operations Services, AJR–G5, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–2822; email *al.meilus@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The New York Terminal Radar Approach Control facility (N90) currently provides Air Traffic Control (ATC) services to overhead flights in the Northeast corridor and to the New York City area airports, including John F. Kennedy International Airport (JFK) and LaGuardia Airport (LGA). The airspace complexity resulting from the close proximity of the major commercial airports serving the New York City region is a significant contributing factor to delays at JFK and LGA. Against this challenging backdrop, although FAA is accelerating the hiring and training for air traffic controllers, key facilities face staffing shortfalls that impact ATC's ability to efficiently manage the volume of air traffic in this congested airspace.

As a result of the staffing constraints, FAA previously issued relief from minimum usage requirements on September 20, 2023, which applied to the Winter 2023/2024 season and Summer 2024 season.[1] Subsequently, that relief was extended through the Winter 2024/2025 and Summer 2025 seasons [2] and the Winter 2025/2026 and Summer 2026 seasons.[3]

FAA had previously determined that the New York Area Terminal Radar Approach Control (TRACON), known as ''N90,'' needs to reach at least 70% of its targeted number of onboard Certified Professional Controllers (CPCs) to efficiently manage the full capacity of the New York airspace that was in place prior to May 15, 2023. FAA has made significant changes to increase N90 staffing through a combination of incentive and training programs, as well as by relocating control of the Newark Liberty International Airport (EWR) area from N90 to the Philadelphia Terminal Radar Approach Control (PHL) beginning in late July 2024.

The targeted staffing number at N90 is 226 CPCs; the current CPC onboard number at N90 is 129 (representing 57 percent staffed).

At one time, N90 had been responsible for overseeing the Newark area, with 33 CPCs designated for that area. In July of 2024, FAA relocated control of the Newark area from N90 to PHL. Twenty-four of the 33 CPCs also relocated to PHL, while the remaining CPCs started training in preparation for reassignment to other areas in N90.[4]

At N90, aggressive training plans are in place to certify both new trainees and those CPCs previously overseeing the Newark area who did not transfer to PHL. FAA believes that those CPCs in training for reassignment will certify much more quickly than new trainees who do not have previous N90 experience. This will allow N90 to make significant gains in its staffing percentages over 2026 and 2027. N90 currently has 50 trainees in various phases of training.

The operational impact of changes to address N90 staffing shortages will not be realized immediately but there is a path to mitigating the impact. Although staffing projections indicate that FAA will not reach 70% of the targeted staffing level until after the conclusion of 2027, FAA is taking a measured approach and providing relief in this waiver notice only until the end of Summer 2027.

With ever-growing demand for air travel in the New York City region, additional measures are necessary to ensure that FAA is able to provide expeditious services to aircraft operators and their passengers that traverse this airspace. Early discussions with carriers indicate an interest in increasing operations after October 24, 2026, through most of Winter 2026/2027 and for all of Summer 2027. This being the case, FAA expects increased delays and cancellations in the New York region to exceed those experienced over Summer 2022 and Winter 2022/2023 [5] if a waiver similar to the one that has been in effect from Summer 2023 through Summer 2026 is not extended through Summer 2027 to allow carriers to reduce schedules without penalties for non-use of slots or previously approved operating times. Reducing schedules will improve the alignment between scheduled operations and actual operations, will help prevent unnecessary delays, will help optimize the efficient use of the airports' resources, and will help deliver passengers to their destinations more reliably and on time.

Summary of Petitions Received

On April 21, 2025, Airlines for America (A4A) submitted a petition on behalf of its member carriers [6] requesting an extension of the current relief provided by FAA due to post-pandemic effects on ATC staffing at N90 through the end of the Summer 2027 season. A4A asserts that the current slot waiver successfully created a better travel experience for consumers and that the underlying conditions creating the need for a waiver still exist as staffing shortages persist. A4A expresses appreciation for the steps taken towards hiring and retaining CPCs and in moving oversight of the Newark airspace from N90 to PHL, but stated that these initiatives would take years to

[1] 88 FR 64793 (Sept. 20, 2023).

[2] 89 FR 49256 (June 11, 2024).

[3] 90 FR 35360 (July 25, 2025).

[4] Previous iterations of this staffing-related relief included EWR. However, after the EWR delay reduction meetings held on May 14–16, 2025, FAA determined the targeted scheduling limits at EWR needed to decrease due to staffing, construction and technology issues at the airport. EWR will be addressed in a separate action in order to address the particular challenges and circumstances present at that airport. *See* 90 FR 20545 (May 14, 2025).

[5] Refer to ''Analysis'' section for delay analysis.

[6] A4A members are Alaska Air Group, Inc.; American Airlines Group, Inc.; Atlas Air Worldwide Holdings, Inc.; Delta Air Lines, Inc.; FedEx Corp.; Hawaiian Airlines; JetBlue Airways Corp.; Southwest Airlines Co.; United Airlines Holdings, Inc.; and United Parcel Service Co. Air Canada is an associate member.

effectively stabilize staffing levels. In addition, A4A requests that FAA restore carriers' ability to request retroactive relief if the impacts of controller staffing shortages are even more severe than anticipated and that FAA not reallocate returned slots for ad-hoc use during the waiver period. Finally, A4A requests that FAA make a timely decision regarding relief as time is needed to give carriers stability and the ability to plan.

Standard

At JFK and LGA, slot-holding carriers must use each assigned slot at least 80 percent of the time.[7] FAA will withdraw slots not meeting the minimum usage requirements. FAA may waive the 80 percent usage requirement in the event of a highly unusual and unpredictable condition that is beyond the control of the slot-holding air carrier, and which affects carrier operations for a period of five consecutive days or more.[8]

At Ronald Reagan Washington National Airport (DCA), FAA also will recall any slot not used at least 80 percent of the time over a two-month period.[9] FAA may waive this minimum usage requirement in the event of a highly unusual and unpredictable condition that is beyond the control of the slot-holding carrier, and which exists for a period of nine or more days.[10]

In determining historical rights to allocated slots, including whether to grant a waiver of the usage requirement, FAA seeks to ensure the efficient use of valuable aviation infrastructure and maximize the benefits to both airport users and the traveling public. The minimum usage requirement is expected to accommodate routine cancellations under all but the most unusual circumstances. Carriers proceed at their own risk if they make scheduling decisions in anticipation of FAA granting a slot usage waiver.

Analysis

The number of certified controllers at N90 is still not sufficient to allow FAA to handle normal traffic levels. FAA has worked with the National Air Traffic Controllers Association (NATCA) on a long-term solution to solve the chronic low levels of fully certified air traffic controllers at that facility through a combination of incentive and training programs, as well as relocating control of the EWR area to PHL. FAA will continue to partner with NATCA as it continues efforts to remediate ATC staffing shortages at N90.

Due to the volume of originating and destination flights in the New York City region, as well as the interdependency and complexity of the airspace surrounding JFK and LGA, delays caused in part by N90 staffing shortfalls are expected to significantly impact carriers' ability to operate and meet minimum usage requirements in Winter 2026/2027 and Summer 2027. Absent increased flexibility, FAA anticipates a high likelihood of congestion, delay, and cancellations at JFK and LGA.

Typically, the 20 percent non-utilization allowed under the minimum usage requirement accounts for cancellations due to ATC staffing delays; however, the extent of N90 staffing shortfalls and the expected numbers of scheduled operations for Winter 2026/2027 and Summer 2027 present a highly unusual and unpredictable condition beyond the control of carriers that will impact operations through the entire Winter 2026/2027 and Summer 2027 scheduling seasons.

To ensure there is an adequate basis for this waiver, FAA reviewed the results of a delay model. Using the Annual Service Volume (ASV) model,[11] FAA projected the delay the NYC airports would experience in the absence of a waiver for Summer 2024.[12] Using Summer 2022 data [13] as baseline comparison, FAA estimated Summer 2024 would have experienced an increase of operations of 8.8 percent to 11 percent,[14] which would have resulted in 2.3 to 2.8 million minutes of additional delay, or 53 percent to 65 percent additional delay, compared to the delay experienced in Summer 2022. Because demand has remained the same or increased, in the absence of a waiver, FAA expects these delay numbers, at a minimum, to remain valid through Summer 2027.

Therefore, a waiver of minimum slot usage requirements at JFK and LGA through October 30, 2027, would be likely to allow carriers to reduce operations to enable scheduling and operational stability for the benefit of the flying public.

In addition, because New York City-DCA is a high-frequency market for multiple carriers, FAA recognizes this market is a likely target for carriers to consolidate flights while retaining their network connectivity. If carriers choose to reduce their schedules in the New York City-DCA market, FAA encourages, to the extent practical, carriers to utilize their DCA slots to operate to other destinations. However, if carriers choose not to utilize their DCA slots elsewhere, FAA may consider providing relief to DCA slots that are impacted by the reduction in operations at the New York City airports, except that the limited waiver of the minimum slot usage requirements is not available for any slots granted by the DOT pursuant to Section 502 of the FAA Reauthorization Act of 2024 (Pub. L. 118–63).

Carriers have the ability to request retroactive relief subject to a case-by-case review; however, they should be aware that the N90 staffing shortfalls will not likely form a sufficient basis for further relief after Winter 2026/2027 and Summer 2027 because carriers will have had sufficient opportunity to plan and take remedial action under this waiver policy. FAA does not foresee providing additional post-hoc relief associated with ATC staffing given the extraordinary relief provided here. Given this relief, operational impacts associated with N90 staffing during Winter 2026/2027 and Summer 2027 will likely not have been beyond carriers' control and will not serve as a justification for a separate waiver.

Moreover, access to the New York City airspace is a scarce and valuable public asset, and airlines and airports

[7] Operating Limitations at John F. Kennedy International Airport, 89 FR 41486 (May 13, 2024); Operating Limitations at New York LaGuardia Airport, 89 FR 41484 (May 13, 2024). Note that FAA extended the Operating Limitations at John F. Kennedy International Airport and the Operating Limitations at New York LaGuardia Airport through the end of the Summer 2028 scheduling season, October 28, 2028, as published elsewhere in this issue of the **Federal Register**.

[8] At JFK, FAA will determine historical rights to operating authorizations and withdrawal of those rights due to insufficient usage on a seasonal basis and in accordance with the schedule approved by FAA prior to the commencement of the applicable season. *See* JFK Order, 89 FR at 41488. At LGA, FAA will withdraw any operating authorization not used at least 80% of the time over a two-month period. *See* LGA Order, 89 FR at 41485.

[9] *See* 14 CFR 93.227(a).

[10] *See* 14 CFR 93.227(j).

[11] FAA-developed modeling suite of tools for conducting operational impact analysis for airports and to establish the annual service volume for airports. ASV simulations relate total annual operations to a target delay value and are used by FAA in reports to Congress that identify the airports projected to constrain the NAS. *See https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/perf_analysis/sim_tools.*

[12] FAA projected a Summer 2024 scenario because FAA has already received the air carrier schedules for Summer 2024.

[13] Summer 2022 data is used as baseline for comparison because this was the last summer scheduling season unaffected by the ATC waivers.

[14] Under the current waiver, carriers returned 9% of their initially submitted schedules. Compared to Summer 2023, scheduled operations in Summer 2024 increased by 2%. If FAA assumes an 80% actual usage rate, that results in 8.8% (that is, ((0.09 + 0.02) x 0.8 = 0.088) increase of actual operations. If FAA assumes 100% actual usage rate, then that would be an 11% (0.09 + 0.02) increase.

should be making the most appropriate use of this asset in support of the traveling public and the national economy without broad, prospective waivers. Going forward beyond the Summer 2027 season, FAA does not anticipate issuing further broad, prospective relief.

Decision

FAA determined that the post-pandemic effects on N90 staffing meet the applicable waiver standards and warrant a limited waiver of minimum slot usage requirements at JFK and LGA to allow carriers to return up to 10 percent of their slots at each airport, as well as impacted operations between DCA and JFK or LGA. Despite staffing projections indicating N90 will not reach 70 percent of the targeted staffing level until after the conclusion of 2027, FAA is taking a measured approach and providing relief in this waiver notice only until the end of Summer 2027. FAA will re-evaluate the staffing levels at N90 and the impact to operations in the New York City area before deciding if a waiver beyond Summer 2027 is necessary.

Carriers seeking to return their slots must do so by August 15, 2026, for Winter 2026/2027 (October 25, 2026, through March 27, 2027); and by January 15, 2027, for Summer 2027 (March 28, 2027, through October 30, 2027) to be eligible for relief under this waiver. For DCA, this relief is available only for flights impacted by operations to or from JFK or LGA. Furthermore, FAA expects carriers to up-gauge aircraft serving the affected airports to the extent possible to maintain passenger throughput and minimize the impact on consumers. FAA also expects carriers to maintain connections between the affected airports and regional airports to the extent possible in support of continuous scheduled interstate air transportation for small communities and isolated areas. FAA will closely coordinate with the Office of the Secretary of Transportation, which will be monitoring for indications of unfair, deceptive, or anticompetitive practices or other unlawful economic activity associated with or resulting from the relief granted by this notice. In addition, FAA expects carriers to return scheduled operations in the peak delay periods of the day. The following hours (in local time) are the most prone to delay at each airport: JFK: 1300–2259 and LGA: 1300–2159.

FAA will not reallocate the temporarily returned slots at JFK and LGA, as the goal is to reduce the total volume of operations in the New York City region. Carriers are encouraged to utilize their DCA slots in other markets before returning them to FAA. In the event DCA slots are returned under this waiver, other carriers will have an opportunity to operate the slots on an *ad hoc* basis without historic precedence.

FAA will treat as used the specific slots returned in accordance with the conditions in this notice for the period from October 25, 2026, through March 27, 2027 (Winter 2026/2027), and March 28, 2027, through October 30, 2027 (Summer 2027).

The relief is subject to the following conditions:

1. The specific slots must be returned to FAA by August 15, 2026, for Winter 2026/2027; and by January 15, 2027, for Summer 2027.

2. This waiver applies only to approved slots or operating times during the period of the grant. A carrier temporarily returning a slot to FAA for relief under this waiver must identify approved slots or operating timings for Winter 2026/2027 and for Summer 2027. FAA may validate information against published schedule data prior to the issuance of this notice, and other operational data maintained by FAA. Slots returned without an associated scheduled and canceled operation will not receive relief.

3. Slots newly allocated for initial use since the previous corresponding scheduling season are not eligible for relief.

4. Slot exemptions authorized at DCA by the Department of Transportation are not eligible for relief.

5. Carriers must not engage in unfair, deceptive, or anticompetitive practices regarding their slot usage, leasing agreements, or operations associated with the relief provided by this notice.

Issued in Washington, DC, on June 18, 2026.

William McKenna,

Chief Counsel.

Gian Burdhimo,

Acting Deputy Vice President, System Operations Services.

[FR Doc. 2026–12593 Filed 6–18–26; 4:15 pm]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Submission Deadline for Schedule Information for Chicago O'Hare International Airport, John F. Kennedy International Airport, Los Angeles International Airport, Newark Liberty International Airport, and San Francisco International Airport for the Winter 2026/2027 Scheduling Season

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

ACTION: Notice of submission deadline.

SUMMARY: Under this notice, FAA announces the submission deadline of June 30, 2026, for Winter 2026/2027 flight schedules at Chicago O'Hare International Airport (ORD), John F. Kennedy International Airport (JFK), Los Angeles International Airport (LAX), Newark Liberty International Airport (EWR), and San Francisco International Airport (SFO).

DATES: Schedules should be submitted by June 30, 2026.

ADDRESSES: Schedules may be submitted to the Slot Administration Office by email to: *7-AWA-slotadmin@faa.gov*.

FOR FURTHER INFORMATION CONTACT: Al Meilus, Manager, Slot Administration and Capacity Analysis, AJR–G, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–2822; email *Al.Meilus@faa.gov.*

SUPPLEMENTARY INFORMATION: This document provides routine notice to carriers serving capacity-constrained airports in the United States, including ORD, JFK, LAX, EWR, and SFO. In particular, this notice announces the deadline for carriers to submit schedules for the Winter 2026/2027 scheduling season.

General Information for All Airports

FAA has designated JFK as an IATA Level 3 airport consistent with the Worldwide Slot Guideline (WSG).[1] FAA currently limits scheduled operations at JFK by Order that expires on October 28, 2026.[2] The extension of the JFK Order as well as a similar order that applies to New York LaGuardia Airport (LGA) is published elsewhere in this issue of the **Federal Register**.[3]

FAA has designated EWR, LAX, ORD, and SFO as IATA Level 2 airports [4] subject to a schedule review process premised upon voluntary cooperation. The Winter 2026/2027 scheduling season is from October 25, 2026, through March 27, 2027, in recognition of the IATA Winter scheduling period.

FAA is primarily concerned about scheduled and other regularly conducted commercial operations during designated hours, but carriers may submit schedule plans for the entire day. The designated hours for the Winter 2026/2027 scheduling season are as follows:

- For EWR and JFK, from 0600 to 2300 Eastern Time (1000 to 0300 UTC);
- For LAX and SFO, from 0600 to 2300 Pacific Time (1300 to 0600 UTC); and
- For ORD, from 0600 to 2100 Central Time (1100 to 0200 UTC).

These hours are unchanged from previous scheduling seasons.

Carriers should submit schedule information in sufficient detail including, at minimum, the marketing or operating carrier, flight number, scheduled time of operation, frequency, aircraft equipment, and effective dates. IATA standard schedule information format and data elements for communications at Level 2 and Level 3 airports in the IATA Standard Schedules Information Manual (SSIM) Chapter 6 may be used. The WSG provides additional information on schedule submissions at Level 2 and Level 3 airports. Some carriers at JFK manage and track slots through FAA-assigned Slot ID numbers corresponding to an arrival or departure slot in a particular half-hour on a particular day of the week and date. FAA has a similar voluntary process for tracking schedules at EWR with Reference IDs, and certain carriers are managing their schedules accordingly. The primary users of IDs are U.S. and Canadian carriers that have the highest frequencies and considerable schedule changes throughout the season, and can benefit from a simplified exchange of information not dependent on full flight details. Carriers are encouraged to submit schedule requests at those airports using Slot or Reference IDs.

As stated in the WSG schedule facilitation at a Level 2 airport is based on the following: (1) Schedule adjustments are mutually agreed upon between the carriers and the facilitator; (2) the intent is to avoid exceeding the airport's coordination parameters; (3) the concepts of historic precedence and series of slots do not apply at Level 2 airports, although WSG recommends giving priority to approved services that plan to operate unchanged from the previous equivalent season at Level 2 airports; and (4) the facilitator should adjust the smallest number of flights by the least amount of time necessary to avoid exceeding the airport's coordination parameters. Consistent with the WSG, the success of Level 2 in the United States depends on the voluntary cooperation of carriers.

FAA considers several factors and priorities that are consistent with the WSG as it reviews schedule and slot requests at Level 2 and Level 3 airports, including (1) historic slots or services from the previous equivalent season over new demand for the same timings; (2) services that are unchanged over services that plan to change time or other capacity relevant parameters; (3) introduction of year-round services; (4) effective period of operation; (5) regularly planned operations over *ad hoc* operations; and (6) other operational factors that may limit a carrier's timing flexibility.

FAA seeks to maintain close communications with carriers and terminal schedule facilitators on potential runway schedule issues or terminal and gate issues that may affect the runway times. In addition to applying these priorities from the WSG, the U.S. Government has adopted a number of measures and procedures to promote competition and new entry at U.S. slot-controlled and schedule-facilitated airports.

Slot management in the United States differs in some respects from procedures in other countries. In the United States, FAA is responsible for facilitation and coordination of runway access for takeoffs and landings at Level 2 and Level 3 airports; however, the airport authority or its designee is responsible for facilitation and coordination of terminal/gate/airport facility access. The process with the individual airports for

[1] FAA generally applies the WSG to the extent there is no conflict with U.S. law or regulation. FAA recognizes the WSG has been replaced by the Worldwide Airports Slot Guidelines (WASG). The currently effective version of the WASG is edition 4, effective August 1, 2025. However, despite several updates to the guidelines, FAA generally applies its predecessor, the WSG, edition 9, to the extent there is no conflict with U.S. law or regulation. The WASG is published jointly by Airports Council International-World, IATA, and the Worldwide Airport Coordinators Group (WWACG). While FAA is considering whether to implement certain changes to the Guidelines in the United States, it will continue to apply WSG edition 9.

[2] Operating Limitations at John F. Kennedy International Airport, 73 FR 3510 (Jan. 18, 2008), as most recently extended 89 FR 41486 (May 13, 2024). The slot coordination parameters for JFK are set forth in this Order.

[3] Operating Limitations at New York LaGuardia Airport, 71 FR 77854 (Dec. 27, 2006), as most recently extended 89 FR 41484, (May 13, 2024). LGA is the equivalent of an IATA Level 3, coordinated airport. Schedule submissions at LGA are not required for the Winter 2026/2027 scheduling season as slots at LGA are allocated and managed by FAA under separate rules and processes.

[4] These designations remain effective until FAA announces a change in the **Federal Register**.

terminal access and other airport services is separate from, and in addition to, FAA schedule review based on runway capacity.

Generally, FAA uses average hourly runway capacity throughput for airports and performance metrics in conducting its schedule review at Level 2 airports and determining the scheduling limits at Level 3 airports included in FAA rules or orders.[5] FAA also considers other factors that can affect operations, such as capacity changes due to runway, taxiway, or other airport construction, air traffic control procedural changes, airport surface operations, and historical or projected flight delays and congestion.

Finally, FAA notes that the schedule information submitted by carriers to FAA may be subject to disclosure under the Freedom of Information Act (FOIA). The WSG also provides for release of information at certain stages of slot coordination and schedule facilitation. In general, once it acts on a schedule submission or slot request, FAA may release information on slot allocation or similar slot transactions, or schedule information reviewed as part of the schedule facilitation process. FAA does not expect that practice to change, and most slot and schedule information would not be exempt from release under FOIA. FAA recognizes that some carriers may submit information on schedule plans that are both customarily and actually treated as private. Carriers that submit such confidential schedule information should clearly mark the information, or any relevant portions thereof, as proprietary information (''PROPIN''). FAA will take the necessary steps to protect properly designated information to the extent allowable by law.

[5] FAA typically determines an airport's average adjusted runway capacity or typical throughput for Level 2 airports by reviewing hourly data on the arrival and departure rates that air traffic control indicates could be accepted for that hour, commonly known as ''called'' rates. FAA also reviews the actual number of arrivals and departures that operated in the same hour. Generally, FAA uses the higher of the two numbers, called or actual, for identifying trends and schedule review purposes. Some dates are excluded from analysis, such as during periods when extended airport closures or construction could affect capacity.

EWR General Information

FAA issued a Final Order (June 2025 Order) on June 10, 2025, limiting operations at EWR due to elevated delays and operational disruptions caused by air traffic controller staffing challenges, construction, congestion, and telecommunication issues.

On September 29, 2025, FAA issued an extension of the June 2025 Order through the end of the Summer 2026 scheduling season and increased the hourly operating limitations from 68 to 72.[6] The staffing challenges persisted throughout the summer and could not be resolved prior to the start of the Winter 2025/2026 scheduling season or by the close of the Summer 2026 scheduling season.

[6] *www.federalregister.gov/documents/2025/09/29/2025-18871/operating-limitations-at-newark-liberty-international-airport*

FAA extended the existing operating limitations at EWR through the end of the Summer 2027 scheduling season, October 30, 2027, as published elsewhere in this issue of the **Federal Register**. This determination was made as staffing levels for Area C of the Philadelphia TRACON (PHL), which manages EWR, remain level and will not increase significantly prior to the start of the Winter 2026/2027 scheduling season. Carriers are reminded that FAA approval for runway access is separate from the approval process for gates or other airport infrastructure and both are essential for success at EWR. FAA expects that all carriers operating at EWR will respect the scheduling limits and work cooperatively with FAA in order to avoid unacceptable delays and other adverse operational impacts at the airport.

Issued in Washington, DC on June 18, 2026.

Gian Burdhimo,

Acting Deputy Vice President, System Operations Services.

[FR Doc. 2026–12603 Filed 6–18–26; 4:15 pm]

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