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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 731

[Docket ID: OPM-2025-0007]

RIN 3206-A084

Suitability and Fitness

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is amending the Federal Government personnel vetting adjudicative processes for determining suitability and taking suitability actions. The final rule will improve the efficiency, rigor, and timeliness by which OPM and agencies vet individuals for risk to the integrity and efficiency of the service and make clear that individuals who engage in serious misconduct while employed in Federal service are subject to the same suitability procedures and actions as applicants for employment. It also ensures that suitability determinations and actions are applied consistently with Merit System Principles.

DATES: Effective July 30, 2026.

FOR FURTHER INFORMATION CONTACT: For questions, contact Joe Knouff, Suitability Executive Agent Programs, by email at SuitEA@opm.gov or by phone at (202) 599-0090.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

OPM is issuing a final rule to improve the efficiency, rigor, and timeliness by which OPM and agencies vet individuals for risk to the integrity and efficiency of the service. In June 2025, OPM proposed updates to 5 CFR part 731 to the specific factors used to evaluate an individual's suitability or fitness for Federal service, as directed by E.O. 14210 of February 11, 2025, *Implementing the President's "Department of Government Efficiency"*

Workforce Optimization Initiative (90 FR 9669, Feb. 14, 2025). See 90 FR 23467 (June 3, 2025). OPM also proposed updates to OPM's and agencies' delegated authority to take suitability actions on post-appointment conduct as directed by the March 20, 2025, Presidential Memorandum *Strengthening the Suitability and Fitness of the Federal Workforce* (90 FR 13683, Mar. 25, 2025). This final rule amends 5 CFR part 731, subparts A, B, C, and D, to update the specific factors and OPM's and agencies' delegated authority to take suitability actions on post-appointment conduct.

II. Authority and Background

Congress has long charged the President with ensuring that those employed in the competitive service are suitable for Federal employment. In 1871, Congress directed the President to "prescribe such regulations for the admission of persons into the civil service . . . as may best promote the efficiency thereof, and ascertain the fitness of each candidate in respect to . . . character"; appoint individuals to investigate applicants' suitability for Federal employment; and "establish regulations for the conduct of [employees] in the civil service." 1 Rev. Stat. 313, § 1753 (1875) (enacted Mar. 3, 1871). Today, 5 U.S.C. 3301 and 7301 provide similarly that "[t]he President may . . . prescribe such regulations for the admission of individuals into the civil service in the executive branch as will best promote the efficiency of that service," "ascertain the fitness of applicants as to . . . character," and "prescribe regulations for the conduct of employees in the executive branch."

Historically, the President has delegated to OPM and its predecessor, the Civil Service Commission, the authority to prescribe both qualification standards and suitability standards, and to conduct both examinations of applicants' qualifications and investigations of suitability for appointment and continuing employment. See 5 U.S.C. 1104(a)(1). The President charged OPM with, among other duties: (1) "establish[ing] standards with respect to . . . suitability . . . which applicants must meet to be admitted to or rated in examinations"; (2) "[i]nvestigating . . . the suitability . . . of applicants for positions in the competitive service";

(3) "requir[ing] appointments to be made subject to investigation to enable the [Director] to determine, after appointment, that the requirements of law or the Civil Service Rules and Regulations have been met"; and (4) instructing an agency "to remove" an employee found to be "disqualified for Federal employment." E.O. 10577 (Nov. 22, 1954) (codified, in relevant part, as amended, at 5 CFR 2.1(a), 5.2(a), 5.3(a)(1), 5.3(b)); see also 5 U.S.C. 1103(a)(5) (the Director's responsibility for "executing, administering, and enforcing" these Civil Service Rules); 5 U.S.C. 1104(a)(1) (the President's authority to "delegate, in whole or in part, [his] personnel management functions" to OPM); 5 U.S.C. 3302 (the President's authority to "prescribe rules governing the competitive service").

Part 731 of title 5, Code of Federal Regulations, establishes and maintains OPM's policies and procedures governing suitability and fitness investigations and adjudications, including the procedures for taking suitability actions and the general process for appealing a suitability action. Suitability and fitness determinations examine "character or conduct that may have an adverse impact on the integrity or efficiency of the service," such as criminal or dishonest conduct, and deception or fraud in examination or appointment. 5 CFR 731.101, 731.201, 731.202. If the suitability determination is unfavorable, the adjudicator must then determine what "suitability action" is appropriate. See § 731.203(a). OPM's regulations define a "suitability action" to include "[c]ancellation of eligibility," "[r]emoval," "[c]ancellation of reinstatement eligibility," and "[d]ebarment." See § 731.101(a). OPM may also be subject to these regulations in its capacity as an agency.

The objective of the suitability and fitness adjudicator is to establish a reasonable expectation that employment or continued employment of an individual either would or would not protect the integrity and promote the efficiency of the service. When there is a reasonable expectation employment would not do so, the individual should be found unsuitable or unfit. This expectation is established when an adverse nexus or connection can be shown between the character or conduct in question and the integrity of the

service or the individual's capacity and fitness for employment or continued employment.

These interests and objectives apply equally to applicants for employment and current Federal employees, regardless of the employment status as an "appointee" or "employee" as those terms are defined in § 731.101. Current Federal employees, no less than applicants, must remain suitable for Federal employment. Employees who engage in serious misconduct while in the Federal service are equally as unsuitable for Federal employment as applicants who engaged in serious misconduct before applying for Federal employment.

The statutory authorities that direct the President, and by presidential delegation OPM, to take suitability actions apply to employees, not just job applicants. *See* 5 U.S.C. 7301 ("The President may prescribe regulations for the conduct of employees in the executive branch."). Consistent with this broad grant of statutory authority, it has long been presidential and executive branch policy to assess post-appointment conduct to determine an individual's ongoing suitability or fitness to remain in their position and OPM has, under part 731 and implementing guidance, required agencies to make suitability determinations based on post-appointment conduct. *See, e.g.*, 76 FR 69601 (Nov. 9, 2011) and 89 FR 102675 (Dec. 18, 2024) (discussing 5 CFR 731.106(d)).

OPM regulations have long applied suitability criteria to both Federal employees and applicants. Under part 731 and implementing guidance, OPM has required agencies to make suitability determinations based on post-appointment conduct. OPM has established in its regulations that "OPM may take a suitability action under this part against an employee" of an agency and direct that agency to remove the employee based on the suitability factors set forth in 5 CFR part 731, subpart B. These factors are as follows: material, intentional false statement, deception, or fraud, in examination or appointment; a statutory or regulatory bar that prevents the individual's lawful employment; and/or, knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by illegal or unconstitutional means. 5 CFR 731.203(e). Another factor, refusal to furnish testimony as required by 5 CFR 5.4, was a basis for OPM to take a suitability action against an employee and was in place from 1996 until January 2025, when OPM removed this

factor from the suitability factors. *See* 61 FR 394 (Jan. 5, 1996) and 89 FR 102675 (Dec. 18, 2024). OPM regulations have further allowed OPM to consider "[t]he nature of the position for which the person is applying or in which the person is employed" in applying the suitability criteria, making clear that suitability actions might apply to incumbent employees, whether in an appointee or employee status as defined in 5 CFR 731.101, as well as applicants. 5 CFR 731.202(c).

Successive presidential administrations have emphasized that suitability determinations apply not only to applicants and appointees to competitive service or career SES positions but also to employees in such positions. E.O. 13488, Granting Reciprocity on Excepted Service and Federal Contractor Employee Fitness and Reinvestigating Individuals in Positions of Public Trust, (74 FR 4111, Jan. 16, 2009) issued in relevant part under 5 U.S.C. 7301, established a uniform, governmentwide requirement for public trust suitability reinvestigations to ensure persons in public trust positions remain suitable for continued employment.

In January 2017, E.O. 13764 (82 FR 8115, Jan. 23, 2017) amended the Civil Service Rules, E.O. 13488, and E.O. 13467, and established continuous vetting for all positions subject to personnel vetting, including positions subject to OPM's suitability regulations. Continuous vetting refers to the process of "reviewing the background of a covered individual at any time to determine whether that individual continues to meet applicable requirements." Sec. 1.3, E.O. 13467, as amended by E.O. 13764. A "covered individual" is "a person who performs, or who seeks to perform, work for or on behalf of the executive branch." *Id.* In the context of suitability for employment, continuous vetting is used to determine if an individual remains suitable for a position over time.

E.O. 13764 also amended the Civil Service Rules at 5 CFR 5.2(a) to permit the OPM Director to require appointments be made subject to investigation so that the OPM Director can determine, post-appointment, that Civil Service Rules and regulations have been met. E.O. 13764 clarified Civil Service Rule 5.3 to specify that the OPM Director could instruct an agency to remove an employee when the Director finds that the employee is unsuitable. 5 CFR 5.3(a)(1).

In May 2018, the OPM Director and the Director of National Intelligence, in their respective roles as Suitability and Credentialing Executive Agent and

Security Executive Agent, launched the "Trusted Workforce 2.0" initiative to transform workforce vetting by employing a modernized and more efficient process for ensuring that only trusted individuals enter and remain in the Federal workforce. A key goal of the initiative is to provide vetting processes that enable each individual's vetting status to be continuously up to date. Since its launch, the initiative has enabled the enrollment into continuous vetting of more than 4 million individuals serving the Government in national security sensitive positions, including sensitive competitive service and career SES positions, and enrollment is underway for those serving in nonsensitive public trust positions.

OPM has established in its regulations that OPM itself may take a suitability action against an employee in the competitive service or the career Senior Executive Service and direct the employing agency to remove the employee based on a narrow set of its suitability factors in 5 CFR part 731, subpart B. OPM regularly takes suitability actions against such employees based on material, intentional false statement or deception, or fraud, in examination or appointment. OPM has not redelegated to agencies the authority to take suitability actions against employees, even when the conduct occurred prior to employment. OPM requires agencies to refer to OPM cases where there has been evidence of such conduct and, should OPM decide to take a suitability action, OPM directs the agency to remove the employee. OPM also requires agencies to refer cases involving knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force.

Although OPM has required agencies to make suitability *determinations* regarding employees based on post-appointment conduct, OPM has not permitted agencies to take suitability *actions* when the determination is unfavorable. Further, since the Merit Systems Protection Board's (MSPB) decision in *Scott v. OPM* in 2011 (116 M.S.P.R. 356 (2011), modified by 117 M.S.P.R. 467 (2012)), which held that suitability actions cannot be taken for post-appointment conduct, OPM has not itself taken suitability actions regarding employees, regardless of employment status as an "appointee" or "employee" per 5 CFR 731.101, for post-appointment conduct. OPM has recognized, however, in its regulations, that an agency may employ other authorities available to the agency when

an employee's post-appointment conduct renders the employee unsuitable for continued employment in the position, such as Chapter 75 actions. Agencies have reported frustration with not being able to take the next logical step, a suitability action, after finding an employee unsuitable for continued employment.

After *Scott*, Congress specifically legislated that agencies need not proceed through Chapter 75 procedures when taking suitability actions. OPM's regulations have long defined a "suitability action" to include "[c]ancellation of eligibility," "[r]emoval," "[c]ancellation of reinstatement eligibility," and "[d]ebarment." 5 CFR 731.203. In 2015, Congress amended 5 U.S.C. 7512 to exclude "a suitability action taken by [OPM] under regulations prescribed by [OPM], subject to the rules prescribed by the President under this title for the administration of the competitive service" from the scope of actions subject to Chapter 75 procedures. 5 U.S.C. 7512(F); see also Public Law 114–92, Div. A, Title X, § 1086(f)(9), Nov. 25, 2015, 129 Stat. 1010. This legislation functionally overruled a Federal Circuit case (*Archuleta v. Hopper*, 786 F.3d 1340 (Fed. Cir. 2015)), which construed title 5 to subject suitability-based removals to Chapter 75 procedures.

In *Hopper*, OPM argued that suitability-based removals derived from a separate statutory authority than Chapter 75 removals—that is, the presidential authority to regulate employee conduct implies authority to remove employees who violate those regulations, and the President had delegated that authority to OPM. *Hopper*, 786 F.3d at 1348–49. The Federal Circuit in *Hopper* rejected OPM's position. *Id.* But Congress, in adding 5 U.S.C. 7512(F), repudiated *Hopper* and excluded "a suitability action taken by [OPM] under regulations prescribed by [OPM], subject to the rules prescribed by the President under this title for the administration of the competitive service" from the scope of Chapter 75. Congress thus expressly recognized the validity of suitability-based removals from the Federal service and that this authority is separate and distinct from Chapter 75 removal authority.

In addition to congressional action, presidential actions since *Scott* have further established OPM's authority to take suitability actions for post-appointment conduct against appointees and employees in competitive and career SES positions, although OPM has not done so. Notably, in *Scott*, a key

element of the Board's rationale for deciding OPM could not take suitability actions for post-appointment conduct was that, while "it may be that the President could, pursuant to 5 U.S.C. 7301, issue an Executive Order authorizing OPM to make suitability determinations and take or direct suitability actions based on post-admission or postappointment conduct . . . , the President has not issued such an order."

President Trump has now issued such an order, in the Presidential Memorandum *Strengthening the Suitability and Fitness of the Federal Workforce*, issued March 20, 2025 ("the Presidential Memorandum"). 90 FR 13683 (Mar. 25, 2025). President Trump further directed that the OPM Director "propose regulations, consistent with applicable law, amending Part 731 of title 5, Code of Federal Regulations, to account for the delegation" and "to implement appropriate rules and procedures regarding suitability determinations and suitability actions based on post-appointment conduct."

Despite the clear intent from both Congress and the President—stretching over decades now—that agencies should not rely on Chapter 75 procedures to address post-appointment conduct covered by the factors described in 5 CFR 731.202(b), today agencies still largely must rely on Chapter 75 procedures to remove employees who engage in serious misconduct. This means that, illogically, the Government has far greater ability to bar someone from Federal employment who has committed a serious crime or misconduct in the past than it does to remove someone who *engages in the exact same behavior as a Federal employee*. This arbitrary state of affairs limits the tools available to the Government to ensure the efficiency and integrity of the Federal service.

OPM therefore is conforming its regulations to meet the requirements of the Presidential Memorandum and rectifying this irrational gap in the part 731 regulations. Specifically, the rule satisfies the President's direction in the Presidential Memorandum to "implement appropriate rules and procedures regarding suitability determinations and suitability actions based on post-appointment conduct." It also ensures that implementation of continuous vetting as required by E.O. 13467, as amended, as part of the Trusted Workforce 2.0 initiative, is done in an efficient and effective manner. Under this rule, when continuous vetting uncovers information that results in a determination that an individual employed in the competitive

service or career Senior Executive Service is no longer suitable for service, the situation can be remedied by the next logical step: a suitability action.

This rulemaking also implements Sec. 3(d) of E.O. 14210 of February 11, 2025, *Implementing the President's "Department of Government Efficiency" Workforce Optimization Initiative*, which specifies several additional suitability criteria. 90 FR 9669 (Feb. 11, 2025). E.O. 14210 directed the OPM Director to initiate a rulemaking that would propose to include four additional suitability criteria: "failure to comply with generally applicable legal obligations, including timely filing of tax returns"; "failure to comply with any provision that would preclude regular Federal service, including citizenship requirements"; "refusal to certify compliance with any applicable nondisclosure obligations, consistent with 5 U.S.C. 2302(b)(13), and failure to adhere to those compliance obligations in the course of Federal employment"; and "theft or misuse of Government resources and equipment, or negligent loss of material Government resources and equipment." OPM proposed these new factors in its Notice of Proposed Rulemaking "Suitability and Fitness" 90 FR 23467. The final disposition of these new factors is described in the following sections. OPM and agencies must still base suitability determinations on the presence or absence of one or more of the specific factors in 5 CFR 731.202(b) while considering the additional considerations in § 731.202(c) to the extent they are deemed pertinent. The application of the additional considerations ensures suitability determinations are made case-by-case based upon the nature of the conduct, and the conduct's potential impact on the individual's ability to protect the integrity or promote the efficiency of the Federal service.

III. Digest of Public Comments

In response to the proposed rule, OPM received 1,479 comments¹ during the 45-day public comment period from multiple individuals, multiple labor organizations, and a professional organization representing employment law lawyers. At the conclusion of the public comment period, OPM reviewed and analyzed the comments. In general, the comments on the rule change were mixed, with some expressing support, others expressing opposition, and many comments that were outside the scope of the rulemaking. The comments are

¹ Comments filed in response to this rulemaking are available at <https://www.regulations.gov/docket/OPM-2025-0007>.

summarized below, including suggestions for revisions that OPM considered and either adopted, adopted in part, or declined, along with OPM's supporting rationale.

The first section below addresses general or overarching comments. The sections that follow address comments related to specific aspects of OPM's proposed revisions. The discussion of these comments is grouped by topic.

III.A General and Out-of-Scope Comments

OPM received many comments in response to its proposed rulemaking that were either extremely broad in nature or related to matters that were outside the scope of the proposed rule. A summary of these comments follows.

Summarizing general comments first, some commenters offered support for the regulatory changes, expressing appreciation for expanded OPM oversight and intentions to unify and modernize Federal personnel vetting. Supporters were optimistic the changes will address fraud, waste, abuse, mismanagement, lack of accountability and enforcement, perceptions of immunity, and long disciplinary proceedings incurred at the expense of the taxpayer. Supporters believed conduct and ethical standards should be high and applicable to all Federal employees. Several agencies commented that the rulemaking will enhance their ability to manage risk and make on-going efforts to implement continuous vetting more effective. See, e.g., comments from U.S. Department of Homeland Security and Department of Education.

General comments in opposition included basic expression of displeasure with the proposed rule without specifying any reasons why, and many others characterized the rule as an attack on the civil service without further explanation. Multiple commenters in opposition also expressed concern that OPM's proposed changes related to post-appointment conduct suitability actions would alter how agencies handle employee performance concerns. Unless directly related to a specific factor used to evaluate an individual's suitability, conduct considered as the basis for a suitability determination does not generally include the inability to perform. Nothing in OPM's rule changes the authorities under which performance matters are handled.

Included in comments in opposition to the rule were many comments that addressed topics that were outside the scope of the proposed rule. These out-of-scope comments touched on many

different topics. OPM is not addressing comments on topics that are outside the scope of this rule. The topics commenters brought up that were outside the scope of this rule include the Notice of Proposed Rulemaking, *Improving Performance, Accountability and Responsiveness in the Civil Service*, the *Merit Hiring Plan* initiative, the sale and management of Federal public lands, the rehiring of park rangers, reductions in force, and activities of the Department of Government Efficiency.

Some out-of-scope comments did address the proposed changes in the rule more directly; however, they digressed into topics not covered or impacted by the proposed changes. For example, a large number of comments claimed that the proposed rule would eliminate an individual's right to appeal a suitability action to the MSPB. OPM proposed no changes in this rule that would change appeal rights for suitability actions found in 5 CFR 731 subpart E. Other commenters recommended that OPM revise which types of positions (e.g., competitive service, excepted service, contractor) are subject to suitability determinations and actions, with some recommending adding types of positions to be subject to suitability and others recommending eliminating some types. OPM proposed no changes to, and has limited authority to change, the types of positions subject to suitability determinations and actions and these comments are therefore out-of-scope. Additional out-of-scope topics included requests to define terms or questioning the underlying need for pre-appointment suitability investigations. The definitions suggested were not relevant to this rulemaking, and OPM did not propose any changes to pre-appointment suitability investigations in this rulemaking.

Several commenters objected to continuous vetting, incorrectly assuming that it was a new process OPM was proposing to add. Continuous vetting requirements already exist in 5 CFR part 731, and OPM proposed no changes to these requirements. As such, comments opposing continuous vetting are outside the scope of this rule.

III.B Topical Analysis

In the following sections, we address the public comments related to the specific topics of the regulation to which each comment applied.

III.B.1 Suitability Factors

Historically, 5 CFR part 731 identified the limited circumstances in which OPM could take a suitability action against an employee, which were based on a subset of the suitability factors

considered in evaluating an applicant or appointee's character and conduct, and only when the conduct was connected to the individual's examination, application, or appointment. In the proposed rulemaking, OPM explained, "[b]ecause employees who engage in serious misconduct while in the Federal service should not remain in Federal service, OPM should not limit its ability to take action to a limited subset of factors." See 90 FR 23467, page 23470. OPM received several comments claiming that OPM is broadly expanding the suitability factors that apply to employees from a mere subset of the factors in § 731.202(b). Additionally, commenters suggested that OPM's proposal would allow OPM to arbitrarily decide which factors apply, and when. See Comment 1055,² as an example. OPM seeks to dispel this misconception.

While OPM is amending the specific factors used when making suitability determinations and taking suitability actions, and incorporating criteria as directed in E.O. 14210, OPM disagrees with the contention that historically only a subset of factors were relevant to evaluating whether employees' character and conduct made them suitable for the Federal workforce, or that under these new regulations OPM is at liberty to decide if or when factors apply. OPM has long required agencies to assess information bearing on an individual's continued suitability, including information that falls outside the factors necessitating a referral to OPM. Historically, when employee conduct raised suitability concerns, agencies addressed the matter under other available authorities. The changes in this rule do not suggest that previously, certain suitability factors were irrelevant to evaluating employees; rather, the changes address the authority and process for resolving such issues when conduct justifies a suitability action.

As an example, previously, if an employee engaged in criminal conduct, the agency was expected to assess the conduct and relevance to the individual's suitability for continued employment, but neither the agency nor OPM could take a suitability action based on the criminal conduct, absent related conduct that did warrant an OPM referral (e.g., material, intentional false statement, or deception or fraud, in examination or appointment). If the

² Comments cited are available in the docket for this rulemaking and can be accessed at <https://www.regulations.gov/comment/OPM-2025-0007-nnnn>, where "nnnn" is the comment number. Note that the number must be four digits, so insert preceding zeroes as appropriate.

agency determined actionable misconduct was present, it had to take an administrative action under its own authority such as 5 CFR 752. Essentially, OPM's ability to take a suitability action was limited to a subset of the factors, but the necessity for the agency to measure conduct against all factors and take appropriate punitive action was not. This rule broadens OPM's and agencies' authorities to take suitability actions against employees and appointees. However, conduct associated with all suitability factors is, and has always been, relevant, regardless of the authority available in different circumstances, to address the misconduct.

As discussed in III.A., comments related to existing suitability factors to which OPM has proposed no changes are outside the scope of this rulemaking. Some comments raised concerns that the meaning of the newly proposed factors is too vague. To address these concerns, the following discussion will cover each proposed change to the factors.

First, OPM proposed amending § 731.202(b)(1) to add examples to the existing factor for misconduct or negligence in employment that may be committed by current or former employees. The proposed additions read:

(i) Theft or misuse of Government resources and equipment, or negligent loss of material Government resources and equipment during employment with, or on behalf of, the Federal Government or a state, territorial, or local government;

(ii) Refusal to certify compliance with any applicable non-disclosure obligations consistent with 5 U.S.C. 2302(b)(13) and failure to adhere to those compliance obligations in the course of Federal employment; and

(iii) Refusal to furnish testimony as required by § 5.4 of this chapter.

Numerous public responses questioned what type of conduct would be captured under these examples. See Comment 571 for an example. In general, this factor relates to conduct involving questionable judgment, unreliability, dishonesty, or unwillingness to follow rules or regulations in the context of employment. This factor does not include performance (or inability to perform) concerns, failure to complete training, or other qualification issues as long as such concerns are not related to misconduct or negligence.

With regard to the first proposed example, § 731.202(b)(1)(i), some commenters requested OPM provide additional definitions or criteria for

words such as "theft", "misuse", "negligent", "material", and others. See Comment 812 for an example. OPM does not agree that these words are vague or need further definition, as they are all commonly understood terms of which OPM is not proposing any novel uses. Commenters also requested that OPM set specific criteria or thresholds for each type of conduct covered by this example. Again, OPM does not agree that any thresholds need to be established, and notes that doing so would amount to an almost impossible task of identifying potentially endless possible scenarios. The suitability adjudication process involves an examination of the evidence and takes into consideration the unique circumstances for each individual case.

For the second proposed example related to compliance with non-disclosure obligations at § 731.202(b)(1)(ii), commenters raised concerns requesting OPM better describe the conduct intended for consideration under this example and expressed concerns that the proposed language did not account for whistleblower protections. See Comment 969 for an example of concerns raised. Federal employees and contractors are subject to longstanding legal and ethical obligations to safeguard nonpublic information obtained through their official duties. These obligations arise under multiple authorities, including the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2635), as well as statutes such as the Privacy Act of 1974. Together, these requirements reflect the expectation that those working for or on behalf of the Federal Government will handle official Government information responsibly and refrain from disclosing nonpublic information without authorization or through unauthorized channels and, when required as a condition of employment, will express their commitment to abiding by these obligations in writing. OPM notes that the proposed language did also account for whistleblower protections by including "consistent with 5 U.S.C. 2302(b)(13)" and that commenters expressing this concern seemingly overlooked this language, which requires a specific statement notifying employees of their rights, obligations, or liabilities relating to classified information, communications to Congress, whistleblowing to an Inspector General, or any other whistleblower protection. OPM has proposed a new form that agencies could elect to use to establish a non-

disclosure agreement with individuals (91 FR 31478, May 27, 2026). OPM expects the form to help employees understand their responsibilities with respect to release of information obtained through their official duties and allows them to certify that they understand their obligations and agree to comply with them.

For the third example of misconduct or negligence in employment proposed at § 731.202(b)(1)(iii), OPM has determined not to pursue adding this proposed example to the regulation. As discussed previously, the third example related to § 5.4 of this chapter was included in § 731.202(b) before when OPM had authority to take suitability actions against employees based on pre-appointment conduct. OPM received many comments opposed to reintroducing this former standalone factor as an example of misconduct or negligence in employment. See Comment 1063 for an example. OPM disagrees with comments suggesting the language is vague or that inclusion would violate individuals' constitutional rights. Nevertheless, even though OPM now has authority to take suitability actions against appointees and employees for post-appointment conduct, the population most likely to engage in the conduct described in the proposed example, OPM has concluded that the alternative mechanisms for agencies to address such conduct that supported removal of this factor remain. OPM is removing this example from § 731.202(b)(1) in the final rule.

The next factor proposed by OPM at § 731.202(b) was § 731.202(b)(5), which read, "Knowing and willful failure to comply with generally applicable legal obligations, including timely filing of tax returns." Numerous comments criticized the language as vague, questioned the meaning of "generally applicable legal obligations," and expressed concern that, as written, the factor did not consider nuances in tax compliance. See Comments 326 and 039 as examples. OPM also received several comments expressing concern that this factor may be difficult to apply consistently, emphasizing the definition of "knowing and willful" is unclear. See Comments 1277 and 1401 as examples. OPM appreciates these comments and the opportunity to provide further clarity surrounding this factor, to include clarifying the distinction between the types of conduct that would be considered under this factor from conduct that would be considered under the existing criminal conduct factor. In response to the comments on this proposed factor, OPM is revising this factor to read, "Failure to comply

with financial obligations or generally applicable civil legal obligations, such as timely filing of tax returns.” This revised language more precisely reflects the intent of the original proposed factor.

OPM has determined that including an intent requirement in the text of the factor is unnecessary and may create inconsistency and avoidable administrative complexity. Suitability and fitness adjudications already require a case-by-case assessment of the nature and seriousness of the conduct, the circumstances surrounding the conduct, and other pertinent considerations under § 731.202(c). Accordingly, an adjudicator may consider whether the individual acted knowingly, willfully, inadvertently, reasonably, or with mitigating circumstances as part of the overall adjudicative analysis. Removing “knowing and willful” from the factor does not prevent consideration of intent; rather, it avoids making intent a threshold element that must be separately established before the factor may be considered.

Prior to proposing this new factor, conduct related to financial responsibility or civil legal obligations was addressed under the existing factor for dishonest conduct. The expectation of fiscal responsibility and compliance with civil legal obligations, including tax compliance, is not new to suitability adjudications. This factor is focused on deliberate noncompliance with significant obligations, not on financial hardship itself. Adjudicators must distinguish deliberate disregard of an obligation from inadvertent error, inability to pay, or noncompliance resulting from circumstances beyond the individual’s control. For example, serious medical issues, job loss, or other extenuating circumstances may cause financial distress without reflecting intentional irresponsibility. The suitability adjudication process accounts for this nuance, and underscores the relevance of materiality, by evaluating financial concerns in the context of the additional considerations found at § 731.202(c), including the circumstances surrounding the conduct, its seriousness and recency, contributing societal conditions, and rehabilitation or efforts toward rehabilitation. OPM believes that creating a separate factor for this conduct will help adjudicators focus on whether the individual failed to comply with a material obligation, rather than treating financial difficulty as synonymous with dishonesty.

Another area of concern on this proposed factor raised by multiple

commenters was the inclusion of language related to timely filing of tax returns. Commenters noted that not all unfiled tax returns are associated with unpaid taxes. Comment 039. An individual could even be due a refund for a tax overpayment on an unfiled return. Commenters also voiced concern that with the addition of this factor, tax compliance issues that would typically result in modest IRS penalties could be used as the potential basis for removal and debarment from Federal employment, a much harsher penalty than that imposed by the IRS. See Comment 015. OPM acknowledges that there may be no penalty imposed by the IRS for an unfiled return when taxes are not owed; however, the absence of a penalty does not negate the civil obligation to timely file a tax return. Additionally, when an individual has unpaid taxes, as discussed previously, the conduct would be evaluated in the context of the additional considerations at § 731.202(c). The assessment would include evaluating the circumstances surrounding the conduct, and efforts toward rehabilitation such as entering into repayment plans.

Finally, many commenters expressed concern over the types of legal obligations that may be considered under this factor and that it could create overlaps with conduct considered under the criminal conduct factor. See Comment 474 for an example. OPM appreciates these comments and has revised the final language as noted above. The revisions clarify this factor is scoped to *civil* legal obligations and ensures there is a clear distinction between the type of conduct considered under this factor versus under the criminal conduct factor. A civil legal obligation is a duty imposed by law that requires a person or entity to do something (or refrain from doing something) in relation to another person or entity under civil law, as opposed to criminal law. In many scenarios, there is a nexus between financial duties and civil legal obligations. In addition to debts owed to the U.S. Government, other examples of where civil legal obligations may arise include, but are not limited to, contracts, torts, and statutes. Examples of such obligations may include: performing according to a business contract; making required payments under a loan and/or not defaulting on a loan; or court orders or judgments requiring payment of child support, alimony, or other repayment orders.

The next factor with a proposed change is the existing factor related to alcohol use at § 731.202(b)(7). OPM proposed no changes to the type of

conduct considered under this factor or the description of the specific considerations to be applied when using it. OPM only proposed to remove the words “applicant or appointee” from the factor to clarify to agencies that it may be applied to all individuals regardless of employment status. OPM received many comments related to this factor; however, they did not address the specific nature of the proposed change and are therefore considered outside the scope of this rulemaking. See Comment 538 for an example. These comments did draw attention to the fact that in the proposed regulatory text for § 731.202(b)(7), the words “applicant or appointee” were only removed in the first instance while being erroneously retained at the end of the factor. OPM appreciates commenters drawing attention to this error and is revising the text for this factor to read as follows: Excessive alcohol use, without evidence of rehabilitation, of a nature and duration that suggests the individual would be prevented from performing the duties of the position in question, or would constitute a direct threat to the property or safety of the individual or others.

The final proposed factor that received comment was the factor proposed at § 731.202(b)(6) concerning failure to comply with any provision that would preclude Federal service. The original proposed language read, “Failure to comply with any provision that would preclude Federal service, including citizenship or nationality requirements.” In reviewing comments, OPM determined both this factor, and the existing factor, “Any statutory or regulatory bar that prevents the lawful employment of the individual in the position in question,” lead to the same conclusion—the individual is not suitable for employment due to conduct or conditions that disqualify him or her from lawful employment. Feedback from commenters also acknowledged this overlap. See Comment 528. If OPM kept both the existing and new factors separate, in most instances, an individual’s failure to meet a provision of law would need to be considered under both factors, and articulating the differences between the two in an adjudication would have been overly complicated due to similarities. OPM has decided to combine these two factors into a single factor to clearly convey the intent, eliminate confusion, and sufficiently cover impediments to lawful employment. The combined factor reads: “Any statutory or regulatory bar or any other provision of law, regulation, Executive order, or

other binding legal authority that prevents the lawful employment of the individual in the position in question, such as citizenship or nationality requirements.”

Some commenters focused on the references to citizenship and nationality requirements, believing that persons lawfully admitted to the United States for permanent residence and seeking U.S. citizenship are eligible for Federal employment based on the definition of “protected individual” in 8 U.S.C. 1324b(a)(3)(B). See Comment 029. This law explains the prohibition of discrimination based on national origin or citizenship status. While the definition of protected individuals in this law includes aliens who are lawfully admitted for permanent residence, certain aliens admitted for temporary residence, and certain refugees and asylees, 8 U.S.C. 1324b(a)(2)(C) includes an exception for discrimination because of citizenship status which is otherwise required in order to comply with law, regulation, or executive order, or required by Federal, State, or local government contract, or which the Attorney General determines to be essential for an employer to do business with an agency or department of the Federal, State, or local government. As explained in Executive Order 11935, an individual cannot be admitted to competitive examination or given an appointment in the competitive service unless he or she is a citizen or national of the United States. In exceptional circumstances, including temporary appointments, a foreign national may be appointed to positions in the competitive service when necessary to promote the efficiency of the service, as described in 5 CFR 316.601, unless the appointment is prohibited by statute. Some statutes governing agencies and positions, such as national security positions, mandate U.S. citizenship by law. As such, OPM believes the reference to citizenship and nationality requirements is appropriate and will retain the examples.

III.B.2 OPM’s Proposal for Post-Appointment Conduct-Based Suitability Actions

OPM proposed changes to §§ 731.103, 731.105, 731.106, 731.203, and 731.301 to exercise its authority to make final suitability determinations and take suitability actions under part 731 in any case involving an employee in the competitive service or in a career appointment to a position in the Senior Executive Service. OPM proposed that it would retain sole jurisdiction to make these final suitability determinations and take suitability actions in any case

involving an employee for post-appointment conduct. Although OPM proposed to retain sole jurisdiction to make final suitability determinations and take suitability actions in these cases, OPM proposed that it would only make such determinations and take such actions after an agency has identified post-appointment conduct that appears to warrant an unfavorable suitability determination and has referred the matter to OPM.

Comments in response to OPM’s proposed changes to implement post-appointment conduct-based suitability determinations and actions were numerous and addressed many different sub-topics related to this proposal. These sub-topics are addressed in the discussion that follows.

III.B.2.a Lack of Authority

Numerous comments claimed that OPM lacks authority to take 5 CFR part 731 suitability actions based on post-appointment conduct for employees in the competitive service or career Senior Executive Service, and that doing so would constitute an unlawful overreach of its statutory and delegated authorities. See Comment 1393 for an example of such comments. OPM disagrees with this assessment of its authorities. As noted above in section II, Authority and Background, Congress has directed the President to prescribe regulations for the conduct of employees in the executive branch and authorized him to delegate his authority over personnel management functions. Specifically, the President has delegated to OPM the authority to prescribe suitability standards and to conduct investigations of suitability for appointment and continuing employment.

OPM’s authority to require agencies to assess employees’ post-appointment conduct to determine their ongoing suitability to remain in their positions is not new and this rulemaking proposed no substantive changes to this longstanding requirement. See, e.g., 76 FR 69601 (Nov. 9, 2011) and 89 FR 102675 (Dec. 18, 2024) (discussing 5 CFR 731.106(d)). The proposed change primarily addresses how agencies should resolve situations when their assessment of an employee’s post-appointment conduct appears to warrant an unfavorable suitability determination. Although it is true that, since the MSPB’s decision in *Scott v. OPM*, noted above, OPM has not taken suitability actions against employees for post-appointment conduct, this does not mean that OPM lacks authority to do so. Quite the contrary, OPM’s proposal to make final suitability determinations

and take suitability actions against employees based on post-appointment conduct aligns OPM’s regulations and the suitability process with congressional and presidential intent to manage risk in the civil service.

Many of the commenters questioning OPM’s authority to make final suitability determinations and take suitability actions for post-appointment conduct claimed that employee misconduct must be addressed under Chapter 75 procedures and that OPM has no authority to remove an employee for post-appointment misconduct under suitability. See Comment 1373 for an example. OPM disagrees and finds this viewpoint to represent a misunderstanding of congressional intent related to suitability actions. As noted above, in 2015, Congress added 5 U.S.C. 7512(F) to clarify that “a suitability action taken by the Office under regulations prescribed by the Office, subject to the rules prescribed by the President under this title for the administration of the competitive service”³ is not within the scope of Chapter 75. This clarifying addition was part of a larger package of reforms in the Fiscal Year 2015 National Defense Authorization Act (FY 2015 NDAA) designed to improve the speed and effectiveness of Government personnel security, suitability, and credentialing reviews. These reforms were heavily influenced by Congress’ response to tragic, potentially avoidable events had the Government had more robust personnel vetting processes in place. Following the Washington Navy Yard shooting in September 2013, when a trusted insider tragically killed 12 individuals at a Government facility, Congress held hearings examining necessary improvements to vetting processes highlighted by this event and other high-profile leaks of information (e.g., the unauthorized disclosure and subsequent public release of classified U.S. Government information leaked by Edward Snowden to the media⁴), and crafted legislation to improve the Government’s ability to protect against risk posed by trusted insiders. For example, the same section of the FY 2015 NDAA that excluded suitability actions from the scope of Chapter 75 also directed action to develop strategies and capabilities to enable real-time, risk-managed personnel vetting decisions, increase access to criminal history information when determining

³ National Defense Authorization Act (NDAA) for Fiscal Year 2016, Public Law 11492, div. A, title X, § 1086(f)(9), Nov. 25, 2015, 129 Stat.1010.

⁴ See <https://www.congress.gov/event/113th-congress/house-event/LC1115/text>.

an individual's suitability or fitness for employment, and improve insider threat detection and prevention. In passing this amendment, Congress meant to improve the Government's ability to mitigate risk by clarifying that suitability actions were never intended to follow Chapter 75 procedures.

In addition to congressional interest and action to improve the Government's ability to mitigate risk posed by employees whose post-appointment conduct renders them unsuitable, as noted above, the President has now delegated this authority to OPM. Through issuance of the Presidential Memorandum *Strengthening the Suitability and Fitness of the Federal Workforce* (90 FR 13683, Mar. 25, 2025), President Trump delegated authority to the OPM Director to make final suitability determinations and take suitability actions regarding employees in the executive branch based on post-appointment conduct.

Some comments portrayed OPM's position that it could take suitability actions based on post-appointment conduct as new and potentially politically motivated. See Comment 160 for an example. While the President's delegation of this authority to OPM is recent, OPM's position that such actions are under its authority is not new. In fact, in *Scott v. OPM*, OPM's position was that its authorities included the authority to take a suitability action based on post-appointment conduct. OPM notes that it argued that position when OPM was under leadership of an Administration representing a different political party than the current Administration. OPM therefore disagrees with characterizations of this policy as new or politically motivated.

Some commenters claimed that OPM lacks authority to take post-appointment conduct suitability actions for persons in career appointments to the SES. OPM disagrees. Although section 7543 does not include language akin to section 7512(F), Congress adopted subsection (F) to reverse an incorrect judicial interpretation of section 7512 and specified that subsection (F) was a clarification of congressional intent. Public Law 114–92, div. A, title X, sec. 1086(f)(9) (129 Stat. 1010) (identifying the amendment under the heading “Clarification regarding adverse actions”).

OPM does not interpret 5 U.S.C. 7543 to displace the President's and OPM's separate suitability authority when OPM acts under regulations prescribed under 5 U.S.C. 3301 and 7301 and the Civil Service Rules. Section 7543 governs actions covered by subchapter V of chapter 75. A suitability action under

part 731 is taken under separate suitability authority, is subject to the procedures in this part, and is limited by the requirements of § 731.202 and the procedural protections in subpart C. OPM recognizes the SES-specific statutory scheme and therefore retains sole jurisdiction over any such action involving a career SES employee.

III.B.2.b Sufficiency of Chapter 75 Procedures

Generally, many commenters expressed a preference for current Chapter 75 procedures over OPM's proposal to make final suitability determinations and take suitability actions for employee post-appointment conduct. One commenter recommended OPM add consideration of what are commonly referred to as the “Douglas factors,” referring to a set of factors prescribed by the Merit Systems Protection Board for determining the appropriateness of penalties under Chapter 75, to the suitability determination process. See Comment 1053. OPM disagrees with the recommendation. The suitability determination process already provides a similar approach to evaluating conduct using additional considerations at § 731.202(c). The commenter's recommendation attempts to misapply a non-suitability process to suitability procedures and offers no explanation for how the additional considerations at § 731.202(c), which are already part of the suitability process, would fail to provide protections similar to the “Douglas factors.”

Many comments argued that OPM's proposal to make final suitability determinations and take suitability actions for employee post-appointment conduct is unnecessary because current Chapter 75 procedures provide an effective mechanism for agencies to address employee misconduct. See Comment 1373 for an example. OPM disagrees. First, OPM's proposed changes are necessary to bring suitability procedures in alignment with congressional intent and to carry out the President's directive in the March 20, 2025, Presidential Memorandum. Second, post-appointment conduct-based suitability actions provide a more effective tool for protecting the integrity and efficiency of the service from employee misconduct. A key distinction between Chapter 75 procedures and suitability actions is that suitability actions allow OPM to impose a rehabilitative governmentwide debarment from any position in the competitive service or appointment to the career SES for a period of up to three years. The ability to impose such a

debarment better protects the integrity and efficiency of the service by preventing an employee who has engaged in serious misconduct from immediately re-entering the competitive service or career SES at another agency, a feature not found in Chapter 75 actions.

Another feature that makes OPM's proposal to take post-appointment conduct-based suitability actions more effective than Chapter 75 procedures relates to proposed updates to § 731.105(a)(1) that received comments. In § 731.105(a)(1), OPM proposed amendments to clarify that its authority to complete a suitability action continues when an employee, as defined in § 731.101, separates from employment. Several commenters stated that it appears inefficient to pursue a suitability action after an individual has withdrawn an application, an agency has withdrawn an offer of employment, or an appointee or employee has separated from employment. See Comment 487 for an example. OPM notes in response that the authority to complete a suitability action in the case of an applicant, appointee, or employee is not a change from current authorities in § 731.105(a)(1). OPM's proposed change simply clarifies that the distinction between an appointee or employee does not matter with respect to OPM's authority to complete an action after the individual has separated from employment. OPM disagrees, however, that it would be inefficient to complete a suitability action against an individual after he or she has separated. This is a key feature of suitability actions that make them more effective at managing risk than Chapter 75 actions. Under Chapter 75, an employee facing an action because of serious misconduct can escape being held accountable for his or her conduct by resigning or transferring to a new agency. OPM's ability to complete a suitability action and impose a governmentwide debarment in these situations provides better protection for all of Government by holding employees accountable and preventing someone who engages in serious misconduct from being held accountable by simply resigning or transferring to a new agency. This same approach is used presently in suitability actions to ensure that an individual whose conduct makes him or her unsuitable for Federal employment cannot avoid accountability and attempt to bounce from agency to agency. Applying this same principle to post-appointment conduct suitability actions fills this gap in the Chapter 75 process.

These considerations result in OPM concluding that the proposal to make

post-appointment conduct-based suitability determinations and take suitability actions is necessary because current Chapter 75 procedures fall short. If an individual has engaged in serious misconduct that would result in a determination he or she is unsuitable for employment, posing a risk to either the efficiency or integrity of the service, the Government's ability to pursue an action and the penalty it may impose should not be determined by when the misconduct took place—either pre-appointment or post-appointment. Prior to this rulemaking, if the misconduct took place post-appointment, a trusted insider had more opportunity to avoid being held accountable for his or her conduct and even if held accountable, faced a lesser penalty than an individual who engaged in misconduct prior to Government service. Several agencies submitted comments directly on this point, indicating that Chapter 75 procedures are overly complex and often result in agencies choosing not to act and allowing unsuitable individuals to remain employed. See, for example, comments from Department of Homeland Security and Department of Education. Governmentwide, the Merit Principles Survey reports that only 41 percent of supervisors are confident they could remove an employee who committed serious misconduct.⁵ This rulemaking addresses this gap. Suitability actions based on post-appointment conduct provide a better tool for holding Federal employees accountable for serious misconduct, ensuring Federal employees maintain high standards of integrity, conduct, and concern for the public interest.

III.B.2.c Agency Input in Post-Appointment Conduct Actions

OPM's proposal to retain sole jurisdiction for final suitability determinations and suitability actions for employee cases involving post-appointment conduct received several comments expressing concern that agencies would be better positioned to make these determinations and take any necessary suitability actions because they would be most familiar with the individual and his or her conduct, duties, and any unique circumstances. These commenters raised two primary concerns related to agency discretion: first, that OPM would act against another agency's employee without any input from the agency; and second, that

the requirement to refer employee post-appointment conduct cases to OPM deprives agencies of their discretion to manage their personnel and resolve personnel matters under their own authorities. See Comments 067 and 452 for examples.

OPM recognizes that agencies are uniquely positioned to identify situations where an employee's conduct may warrant an unfavorable suitability determination and suitability action. This is why in § 731.105(b) and (d) OPM proposed a limit on its authority to take a post-appointment conduct suitability action against appointees or employees. OPM proposed that it would only make final suitability determinations and take suitability actions based on post-appointment conduct if the employing agency first made a proper and sufficient referral to OPM. The referral would include sufficient details of the facts of the conduct and circumstances, obtained via a background investigation or from internal agency records or information. This limitation on OPM's authority ensures that the employing agency retains autonomy and discretion in identifying those situations where an individual's conduct appears to warrant an unfavorable suitability determination. The agency will have the benefit of relying on its unique knowledge of the individual and the circumstances surrounding the conduct when evaluating it against the specific factors at § 731.202(b). This was the intent of the proposed language in § 731.103(b) that makes the employing agency responsible for assessing whether the employee's conduct would appear to warrant an unfavorable suitability determination.

Next, OPM notes that any impression that the proposed updates to 5 CFR part 731 would preclude an agency from discretionary authority to act on misconduct was a misunderstanding of the proposed rule. There is nothing in the proposed rulemaking that prohibits an agency from pursuing a disciplinary matter against an employee using Chapter 75 procedures or any other authority available to it. Agencies may still resolve disciplinary matters under Chapter 75 procedures. OPM acknowledges that not all post-appointment misconduct would warrant an unfavorable suitability determination and that agencies may prefer to resolve misconduct matters using an alternative authority. Under the proposed rule, agencies retain this discretion to identify when the level of misconduct would appear to warrant an unfavorable suitability determination and refer those matters to OPM for potential action. To further clarify that agencies retain

discretion to resolve employee misconduct under alternative authorities, OPM in this final rule has clarified in §§ 731.103(b) and (g), 731.105(e), and 731.106(d) that agencies *may* make a referral to OPM when an employee's post-appointment conduct appears to warrant an unfavorable suitability determination for OPM to review and potentially take a suitability action.

When proposing in § 731.103(g) that OPM would retain sole jurisdiction to make a final suitability determination and take an action under this part in any case involving an employee for post-appointment conduct, OPM did not intend to prohibit agencies from acting on post-appointment conduct under another authority in situations where OPM decides not to pursue a suitability action after receiving an agency referral. OPM intended only to retain sole jurisdiction to take a suitability action in any case involving an employee for misconduct. OPM has clarified this intent by revising § 731.103(g) to state simply that it retains sole jurisdiction to take a suitability action in any case involving an employee for misconduct. In the event OPM were to decide not to make an unfavorable determination and take a suitability action based on an agency referral, this would not preclude an agency from pursuing an action under another authority for the same conduct. An OPM decision not to make an unfavorable determination and take a suitability action does not imply OPM finds the individual suitable. It is only a decision by OPM based on its review of the information available not to exercise its jurisdiction to make a determination and take an action under this part.

Most of the commenters who raised these concerns recommended that OPM instead delegate to agencies the authority to make final suitability determinations and take suitability actions in employee cases involving post-appointment conduct. See Comment 473 for an example. OPM notes that in the case of an appointee, in § 731.105(a), OPM proposed that both OPM or an agency acting under delegated authority could take a suitability action based on post-appointment conduct, with the limitation noted above that OPM would only take such an action on an appointee if the employing agency first made a referral to OPM. OPM has determined to retain sole jurisdiction over suitability actions for employees based on post-appointment conduct to ensure governmentwide uniformity in the application of this now explicitly expressed delegated authority from the

⁵ See Merit Sys. Prot. Bd., Remedying Unacceptable Employee Performance in the Federal Civil Service at 6 (June 18, 2019), https://www.mspb.gov/studies/researchbriefs/Remedying_Unacceptable_Employee_Performance_in_the_Federal_Civil_Service_1627610.pdf.

President. As noted above, a suitability action includes the possibility of a debarment from positions at a specific agency or governmentwide, both representing significant consequences not included in Chapter 75 actions. Of note, § 731.205(a) limits debarment by agencies to positions within that agency, whereas OPM can debar the individual from examination for, and appointment to, the competitive service and career appointment in the Senior Executive Service, *i.e.*, governmentwide. See § 731.204. As such, OPM has determined that in cases of post-appointment conduct suitability actions against employees it is most prudent to retain sole authority for this responsibility during the initial implementation. While it is true, as pointed out by some commenters, that the process of agencies reviewing cases and then referring them for a secondary review by OPM may introduce some duplication, OPM finds this preferable because it ensures uniformity and consistency in decisions. See Comment 1045. Additionally, agencies will not proceed through the suitability action procedures, and therefore the amount of duplicated effort should be minimal. After initial implementation of suitability actions based on post-appointment conduct OPM may revisit this decision later to assess whether agencies should be delegated authority to take such actions.

Some commenters recommending that OPM delegate authority for post-appointment conduct suitability actions to agencies raised concerns over whether OPM could manage the potential increased workload associated with agency referrals for these actions. See Comment 473. These commenters noted that under the current processes for pre-appointment conduct suitability actions, OPM timelines on processing agency referrals can vary and sometimes appear protracted. While OPM acknowledges these concerns, OPM believes these commenters have overlooked a crucial distinguishing characteristic of the work required to process a pre-appointment conduct action versus a post-appointment conduct action. For pre-appointment conduct referrals made by agencies to OPM, OPM must almost always further investigate the matter to obtain evidence substantiating the conduct. This involves obtaining evidence from sources outside of the Federal Government and adds days of processing time waiting for external sources to reply with information. In contemplating the nature of conduct most likely to result in a post-

appointment conduct suitability referral from an agency, OPM believes that the evidence substantiating the conduct will already be available at the employing agency, thus greatly reducing any need for OPM to obtain additional evidence. OPM will require agency referrals to contain fully developed evidence relating to the post-appointment conduct. By mostly eliminating the need for OPM to conduct additional investigation upon receipt of the referral, OPM believes that the total labor hours and calendar days needed to process these actions will be shorter than those for pre-appointment conduct suitability actions.

Finally, one commenter raised a concern that agencies may face confusion on how to proceed when an individual newly appointed to a competitive service or career Senior Executive Service position and subject to investigation has already converted to an employee in another competitive service or career Senior Executive Service appointment. Comment 574. The commenter provided the example of an individual who is promoted from a non-supervisory competitive service position to a supervisory competitive service position and serves a new period of probation as a supervisor. It is OPM's intent that only OPM have authority to take a suitability action in the case of an individual who meets, or has met, the definition of an employee under 5 CFR 731.101. OPM has clarified § 731.103(a) to state that in a case involving an appointee where the individual has converted to an *employee* in a prior competitive service or career Senior Executive Service appointment, agency heads will consider the individual to be an employee and may make a proper and sufficient referral to OPM if the employee's conduct appears to warrant an unfavorable suitability determination.

III.B.2.d Political Patronage

Many commenters expressed concern that OPM's proposal to make final suitability determinations and take suitability actions based on post-appointment conduct would introduce political patronage and undermine the civil service merit system, recreating a "spoils" system, in violation of the Pendleton Act of 1883 and the Civil Service Reform Act of 1978 (CSRA). See Comment 104 for an example. In addition, many commenters suggested the rule would conflict with the Hatch Act by encouraging partisan political activities of Federal employees. See Comment 218 for an example.

This rulemaking will not undermine merit-based hiring practices, nor will it

undermine the prohibition of civil service employees from using their positions for political purposes. The significant number of responses reflecting these concerns warrants emphasis that suitability determinations and actions are not subject to, nor do they have any bearing on, partisan political activities or coercion. Further, contrary to one commenter's concern that individuals seeking to work or working in the Federal civil service would be required to disclose their voting history and any political party preferences, this is simply not true. Comment 1189. Applicants, appointees, and employees are not asked about their voting patterns or political preferences during any personnel vetting process, except for the unique circumstance of voting in a foreign election when under consideration for eligibility for a national security sensitive position or eligibility for access to classified information. Nothing in OPM's rulemaking changes this. Any consideration of partisan political preferences in suitability procedures remains unlawful under the Merit Systems Principles codified at 5 U.S.C. 2301, and this rule does not alter those protections in any manner. In fact, it strengthens the application of Merit Systems Principles by providing a mechanism to ensure that "[a]ll employees" will "maintain high standards of integrity, conduct, and concern for the public interest." 5 U.S.C. 2301(b)(4).

To further clarify this point, OPM has inserted a new § 731.102(c) stating expressly that suitability determinations and actions must be applied consistent with the Merit Systems Principles set forth in 5 U.S.C. 2301 and the prohibition against unlawful employment practices set forth in 5 U.S.C. 2302(b). This new provision underscores that determining an individual's suitability for Federal service is based on whether an individual's identifiable character and conduct may have an adverse impact on the integrity or efficiency of the service—not partisan political considerations. In making this assessment, OPM or an agency must base its suitability determination on the presence or absence of one or more of the specific factors in § 731.202(b)—again, not based on politics.

In this context, OPM considers its proposal to retain sole jurisdiction over suitability actions for employees based on post-appointment conduct to provide additional protections for employees (in addition to the express protections that OPM is reinforcing via the new § 731.102(c)). As noted above, the

employee's agency must first identify misconduct that appears to warrant an unfavorable determination and then it may refer the matter to OPM. If referred to OPM, staff at OPM will review the evidence, assess the misconduct against the specific factors at § 731.202(b), and make a final determination. This referral process creates a degree of separation between the employing agency and the final authority to take a suitability action, allowing for an objective review of the evidence presented by the employing agency and eliminating the concerns raised by commenters related to politicization of the suitability process. Finally, this rulemaking supports the spirit of the CSRA by improving Government operations and productivity through removal of individuals who no longer support the integrity and efficiency of the service.

OPM notes that the proposed language in § 731.103(a) did state that the head of an agency would make post-appointment conduct referrals to OPM, and this language may have contributed to commenters who read the proposed rule believing the suitability determinations would be predominantly made by political appointees. OPM recognizes that within an appointee's or employee's agency it is unlikely the head of an agency will be directly involved in making a referral to OPM, as this function is typically carried out by staff delegated this duty within the agency. As such, to add clarity to this point, OPM will add language to §§ 731.103(b) and 731.105(b) and (d) making it clear that the referral from the agency may be made by the agency head or one or more people the agency head designates.

Some commenters reacted to the requirement for agencies to send referrals to OPM as a new process that appears vague. See Comment 156. OPM notes that the requirement for agencies to refer suitability cases to OPM has existed for decades and is not new. OPM provides clear instructions to agencies on submitting referrals in supplemental guidance issued under § 731.102(b). OPM makes this guidance available to the public on its website.

III.B.2.e Due Process Concerns

A large number of commenters opposed OPM's proposal to introduce post-appointment conduct-based suitability actions to the suitability and fitness regulations because of concerns that allowing such actions would strip employees of due process rights. The concerns surrounding the topic of due process varied. Some commenters claimed that employees would have no due process rights under the proposed

rule. Others misunderstood proposed changes at 5 CFR 731.304(b) and 731.404(b). Finally, some opposed the proposal for post-appointment conduct suitability actions because they believe suitability action procedures do not provide sufficient due process when compared to the due process afforded to individuals for Chapter 75 actions. For examples, see Comments 038, 025, and 017, respectively.

OPM disagrees with commenters who claimed that individuals subject to a post-appointment conduct suitability action would have no due process under OPM's proposed rule. For this claim to be true it would require 5 CFR part 731 to provide no procedures to protect for fairness and impartiality prior to the Government taking a suitability action. This is simply false. The suitability regulations provide several procedural safeguards. The first procedural protection is the limitation placed on OPM and agencies regarding the type of conduct that can be considered when determining an individual's suitability. Section 731.202(a) requires that OPM or an agency must base its suitability determination on the presence or absence of one or more of the specific factors in § 731.202(b). In the event OPM or an agency makes an unfavorable determination, subparts C and D of 5 CFR part 731 provide the following procedural protections:

- Notification in writing of the proposed action, including the specific reasons for the proposed action;
- The right to review the materials OPM or the agency relied upon to reach the unfavorable determination;
- The right to respond to the proposed action in writing;
- The right to representation; and,
- Notification in writing of the decision regarding the final suitability action.

When OPM or an agency takes a suitability action at the end of this process, individuals subject to a suitability action also have the right to appeal the action as described in 5 CFR part 731, subpart E. OPM notes that it proposed no changes to the right to appeal a suitability action contained in subpart E in this rulemaking. Many of the commenters who claimed there was no due process for suitability actions under the proposed rulemaking also claimed there was no right to appeal a suitability action. This claim is also wholly false.

Many commenters voicing concern about due process focused on language contained in the proposed paragraphs at 5 CFR 731.304(b) and 731.404(b) that states the employing agency of an appointee or employee subject to a

suitability action requiring removal must remove the individual from its rolls within 5 workdays from the final decision. See Comment 579 as an example. These commenters appear to have read this language out of context and to have misunderstood OPM's proposed changes to these sections. The requirement to remove an appointee or employee subject to a suitability action within 5 workdays from the final decision was not a proposed change from the existing requirements in §§ 731.304 and 731.404. Commenters claimed that under OPM's proposed rule an agency could discover an appointee or employee's misconduct and the individual could be subject to a suitability action and removed 5 workdays later with no due process. These commenters appear to have failed to understand that the requirement for removal from the rolls after the final decision included in §§ 731.304 and 731.404 comes after the suitability actions procedures contained in §§ 731.301–303 or 731.401–403, namely, the procedures described in the preceding paragraph.

One commenter did note that existing language at 5 CFR 731.304 and 731.404 at the time of the proposed changes included a requirement that when notifying an individual in writing of a final decision, the notification must include informing the individual of the right to appeal an unfavorable decision in accordance with subpart E of this part. See Comment 937. The commenter noticed that the requirement to notify individuals of the right to appeal was absent from the proposed §§ 731.304(a) and (b) and 731.404(a) and (b) and recommended it be restored. OPM agrees that a requirement to include notification of the right to appeal should be included in the suitability action procedures. The omission was inadvertent, and OPM has included it in the final rule at §§ 731.304(b) and 731.404(b).

The proposed changes at §§ 731.304 and 731.404 instead were intended to clarify decision-making authority for suitability actions and to require independence in decision-making. Specifically, in § 731.304 OPM proposed to clarify that the OPM Director, or designee, will make the final decision regarding a suitability action. When the OPM Director delegates such decision-making, the OPM employee authorized to make the decision would be required to be appropriately independent from the employee who made the suitability determination and proposed the action. For example, the employee adjudicating the suitability determination (*i.e.*,

proposing a suitability action) may not participate in discussions with or advise the OPM official authorized to make the final suitability decision. OPM also proposed to prohibit ex parte communication with the OPM official authorized to make the final decision, applying procedural protections akin to those provided by 5 U.S.C. 554(d). Although 5 U.S.C. 554 and 557 do not apply to suitability actions, OPM believes that the type of legal protections provided by those procedures are appropriate for suitability actions, given the potential significant consequences. In § 731.404 OPM proposed to amend the process by which a final decision on a suitability action is made by an agency, in cases where agencies are permitted to take suitability actions. OPM proposed that the agency head, or designee, will make the final decision regarding a suitability action. OPM proposed the same requirements for independence in decision-making and prohibiting ex parte communication.

Some commenters raised concerns about the regulation placing final decision authority in the OPM Director or an agency head and instead recommended that OPM revise the regulations to require decisions be made by lower-level career civil servants. OPM views this decision process as necessary to ensure that the OPM Director or agency head can supervise adjudicators sufficiently to avoid the constitutional concerns that vesting subordinate officials with final executive authority would engender. Article II of the Constitution vests the executive power in the President, who must rely upon subordinates to exercise his authority. The Supreme Court has held that only principal officers who are appointed by the President with Senate consent can make unreviewable decisions for the executive branch. See *United States v. Arthrex, Inc.*, 594 U.S. 1 (2021). Adjudicators assigned to make suitability determinations under this rule exert significant authority and thus, under *Arthrex*, must be properly supervised by a principal officer (such as the OPM Director). For that reason, OPM is not adopting the recommendation made by some commenters that the regulations be amended to require suitability determinations be made only by career Federal staff. See Comment 009. Finally, one commenter recommended that OPM require deciding officials be individuals who have no intention of leaving Federal service within one year of making the final decision. Comment 528. OPM also is not accepting this

recommendation as it would be impractical to implement: there is no existing mechanism by which the agencies could reliably predict when an employee may decide to leave Federal service.

OPM did receive one comment related to the requirement to remove an appointee or employee within 5 workdays from the final decision when the suitability action includes removal under a post-appointment conduct suitability action. The commenter highlighted that in the context of post-appointment conduct suitability actions, there is a much higher likelihood that an appointee or employee subject to a suitability action may be working for the Government outside of the United States or a United States territory. Comment 030. The commenter noted that it may be impractical in these instances for an employing agency to remove an individual from its rolls within 5 workdays due to the potential need for additional planning to transition the individual out of the workforce. Although OPM appreciates this comment, OPM does not believe any change to the requirement is required. In these situations, the agency will have ample advance notice of a potential unfavorable suitability determination and action to allow for planning for the individual's removal and transition out of the workforce. Notably, in cases involving post-appointment conduct, it will be the agency that first identifies the conduct that may warrant an unfavorable determination and then refers the matter to OPM and the agency also receives notice in the event OPM proposes to take a suitability action. While OPM agrees that any post-appointment conduct suitability action on an appointee or employee working outside of the U.S. or a U.S. territory will require careful planning by the employing agency, OPM does not believe the need for such planning should delay the Government's ability to protect the integrity and efficiency of the service by removing the individual promptly.

As noted, the final concern commenters raised related to OPM's proposal to include post-appointment conduct suitability actions in the regulation is that employees subject to a post-appointment conduct suitability action would receive diminished due process compared to what individuals receive under Chapter 75. While OPM acknowledges that there are differences in procedures between adverse action procedures under Chapter 75 and suitability actions procedures, to include differences in the scope of reviews, OPM disagrees that its proposal

to allow for suitability actions based on post-appointment conduct would diminish the individuals' due process rights. Due process is simply the right to the process, or procedures, due to the individual based on the action taken. OPM has not proposed any changes that would diminish the process an individual receives under the suitability action procedures. The only proposed changes to the suitability actions procedures are the additional requirements for independence in decision-making and the prohibition against ex parte communications noted above. Individuals, whether applicants, appointees, or employees, will receive the same due process they receive today for suitability actions based on pre-appointment conduct, to include appeal rights contained in 5 CFR part 731, subpart E. It is true that some suitability actions for post-appointment misconduct may be actions that would have previously been processed under Chapter 75. In these instances, the process an individual receives may be different than what the individual would have received under Chapter 75. The individual will still, though, receive the process that is due under 5 CFR part 731. Prior to this rulemaking, OPM is unaware of any substantial claims that individuals were not afforded sufficient due process in suitability actions when taking such actions under 5 CFR part 731 against applicants, appointees, or employees based on pre-appointment conduct, even when such actions required removal. OPM disagrees that individuals subject to a suitability action based on post-appointment conduct suffer diminished due process, because they will experience the same process that has been due for suitability actions previously with no substantial change. To strengthen due process protections, in the Final Rule, OPM is expanding the restrictions on ex parte communications in § 731.304(a) and § 731.404(a) to ensure that the official authorized to make the final decision may not consult with, receive advice from, or communicate with the employee who proposed the suitability action concerning the merits of the proposed action, except on notice to the respondent and as part of the record.

III.B.3 Reporting to Governmentwide Systems

OPM proposed amendments to this regulation clarifying that suitability determinations and actions taken based on an internal agency investigation fall under the scope of determinations and actions already required to be reported into the Central Verification System or its successor as part of continuous

vetting. Several commenters raised concerns that incorrectly interpreted the amendments to expand suitability reporting requirements and potentially raise new privacy concerns. See Comment 017 as an example. This is a misreading and misunderstanding of existing requirements. Commenters suggested the rule fails to specify adequate safeguards concerning data accuracy, security, necessity, and permissible use, and recommend stringent compliance standards to avoid liability. These matters are outside the scope of 5 CFR part 731 and are instead addressed, as required by the Privacy Act of 1974, in the System of Records Notice (SORN) covering these records. The Central Verification System or any successor system is operated by the Department of War (DoW) and is covered by the DoW's Personnel Vetting Records System. The SORN for this system may be found at 83 FR 52420.

OPM received one request seeking a method for agencies to report suitability actions on uninvestigated applicants in the Central Verification System, or its successor. See Comment 004. OPM proposed no changes to reporting suitability actions on uninvestigated applicants but may consider this concern as part of future personnel vetting reform efforts.

III.B.4 Continuous Vetting

OPM received many comments that incorrectly believed that OPM's proposed rule was establishing a new requirement for continuous vetting. The requirement for individuals covered by the 5 CFR part 731 to be subjected to continuous vetting existed within the rule prior to OPM's proposed rule and OPM proposed no changes to this requirement. As such, these comments are considered outside the scope of this rulemaking. OPM did propose clarifying language at § 731.106(d)(1) to identify where requirements for handling internal agency information in the context of continuous vetting may be found. One commenter expressed concerns with the reference to "internal agency sources" and asked for clarification on what kind of internal agency information would be deemed credible. See Comment 960. The commenter worried that hearsay or gossip might be considered as evidence for a suitability determination and action. A suitability action must be supported by preponderant evidence, that is, the degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely true than untrue. OPM proposed no changes that would alter

the way evidence is evaluated in the suitability adjudication process. The language identified by the commenter serves only to point agencies to requirements for handling internal agency information in continuous vetting.

One commenter raised questions of the need for post-appointment conduct suitability actions to help implement the Trusted Workforce 2.0 initiative and continuous vetting. See Comment 1065. The commenter referenced a Government Accountability Office (GAO) May 9, 2025, report (<https://www.gao.gov/assets/gao-25-107325.pdf>) of a qualitative survey it conducted with some agencies on their perceptions of improved risk management delivered by the initiative at the time of the report. The commenter focused on the report's finding that, while most agencies reported some improvement in risk management, the improvement was not yet substantial. The commenter questioned whether a need for post-appointment conduct suitability actions truly exists if the reform initiative has not yet had a significant governmentwide impact on risk management. OPM disagrees with the commenter's conclusions. OPM acknowledges that the Trusted Workforce 2.0 initiative launched in 2018; however, the reliance on that date by the commenter fails to acknowledge that the initial stages of reform focused on eliminating a backlog of investigations, securing vulnerable IT systems, and establishing a new vetting policy framework. At this time, enrollment of the Federal workforce into continuous vetting is still underway for individuals occupying positions that are non-sensitive, meaning not involving national security duties. The true benefit of post-appointment conduct suitability actions will be realized as continuous vetting identifies concerning post-appointment conduct. Establishing post-appointment conduct suitability actions now positions the Government to fully protect the integrity and efficiency of the service through suitability actions once continuous vetting is fully implemented.

III.B.5 References to Probationer Authorities

OPM received comments related to its proposal to remove references to 5 CFR part 315 throughout the rule. One of the comments on this topic failed to properly understand the references to part 315, believing they applied to reductions in force, which is found in part 351. See Comment 1402. Another comment described OPM's proposal to remove the reference as premature

before E.O. 14284 has been fully implemented. See Comment 415. OPM has completed the rulemaking required by E.O. 14284. (90 FR 26727, June 24, 2025). Commenters appear to have misunderstood the prior inclusion of the reference in the context of the rule. See, e.g., Comment 474. The rule previously only referenced 5 CFR part 315 as an example of non-suitability authorities an agency may use to take an action. The inclusion or exclusion of the reference in the rule has no impact on authorities related to probationary status for Federal employment nor does it impact the types of positions subject to suitability. As such, OPM finds it prudent to remove the reference to 5 CFR part 315 as an example of an authority under which an agency may take an action pursuant to E.O. 14284.

III.B.6 Training Standards

OPM received comments on its proposal at § 731.202(d) to require persons responsible for suitability screening, review, or making suitability determinations under this part to be trained in accordance with national training standards for suitability adjudicators issued in supplemental issuances, as described in § 731.102(b). The comments collectively questioned when the training standards would be developed, how agencies would obtain training for staff, the timeline for requiring compliance with new training standards, and costs associated. See Comment 1053 for an example. National training standards for suitability adjudicators and the requirement for persons performing suitability adjudication-related duties to be trained in accordance with these standards have existed since August 2012 when first established by supplemental issuance in accordance with § 731.102(b). OPM provides governmentwide training that complies with these standards to agency staff under existing interagency agreements covered by existing budgets. OPM is adding this requirement in the final rule to move the requirement from supplemental issuance to regulation, formalizing the existing requirement. OPM has not adjusted the cost impact as the establishment of this previously existing requirement in the rule will not impact costs at agencies.

III.B.7 Length of Comment Period/ Extension Request

OPM received several comments that the comment period afforded for comment on the proposed rule violated the Administrative Procedure Act (APA). See Comment 028 for an example. They argued that the comment period following the proposed rule,

which extended to July 18, 2025, was unlawfully short, in violation of the APA. The commenters based this argument on multiple sources—first, the APA’s mandate that an “opportunity to participate” on proposed rules be provided following a notice of proposed rulemaking; second, E.O.s 12866 and 13563, which specify that comment periods should “generally” be at least 60 days; and, third, the Supreme Court’s holding in *Perez v. Mortgage Bankers Association*, 575 U.S. 92 (2015), and related caselaw, which generally stipulate that the same procedures be used to amend a rule as were used to enact that rule.

Respectfully, OPM rejects the argument that the comment period was inadequate as a matter of law or policy. As multiple appellate courts have held, a 30-day comment period is generally the minimum needed to comply with the APA.⁶ In *Chamber of Commerce of United States v. U.S. Securities and Exchange Commission*, the Fifth Circuit upheld a 45-day comment period against the charge that it was legally insufficient.⁷ It simply is not the case that the APA requires longer than 45 days for the public to provide comment.

The commenters’ reliance on E.O.s 12866 and 13563 is similarly misplaced. E.O.s 12866 and 13563 only specify that comment periods should “generally” be at least 60 days. The policy rationale is that stakeholders should have adequate opportunity to meaningfully participate in the notice-and-comment process. Concerning the present rulemaking, OPM received over one thousand four hundred distinct comments, offering nuanced perspectives on virtually every aspect of the proposed rule. Factually, it cannot be said that the comment period was insufficient to allow for meaningful feedback on the proposed rule given the voluminous feedback that OPM did receive.⁸ In its proposed rule, OPM

decided that a 30-day comment period would be adequate. However, at the request of commenters, OPM extended the comment period for an additional fifteen days. (90 FR 29512, July 3, 2025).

Accordingly, the 45-day comment period provided by OPM, which included a 15-day extension from the usual APA-required minimum at commenters’ request, provided a reasonable opportunity for public comment.

Further, nothing in *Perez* stands for the proposition that the length of comment periods to initially promulgate and then amend a regulation must be identical. OPM promulgated 5 CFR part 731 through notice and comment rulemaking and is amending it through the same procedures. This comports fully with *Perez*.

III.B.8 Hiring and/or Retention

Many commenters expressed concerns that OPM’s proposal to make final suitability determinations and take suitability actions based on post-appointment conduct and to modify several of the specific factors at § 731.202(b) would dissuade qualified individuals from attempting to join the Federal workforce and prompt attrition among experienced staff. The commenters provided several different reasons they believe the proposed changes will negatively impact hiring and retention. See Comments 042, 060, and 1054 for examples.

OPM disagrees that its rule will negatively impact retention or morale. Many of these negative comments appear to be based on an incorrect understanding of OPM’s proposal. Commenters cited the elimination of appeal rights and a five-day removal period with no opportunity to respond as negatively impacting employee morale. As discussed in section III.B.2.e, Due Process Concerns, these reasons reflect a fundamental misunderstanding of OPM’s proposals and thus this final rule. Some commenters also imply that a very large number of employees will be removed under this rule. OPM notes that, while it estimates a portion of actions taken under Chapter 75 will be taken as suitability actions in the future, OPM did not estimate a significant increase in the number of individuals that would be removed whether under Chapter 75 or suitability actions. A proper understanding of revisions to

this regulation should not deter qualified applicants from seeking Federal employment or discourage Federal employees from maintaining their positions. In fact, OPM expects the shift in post-appointment suitability actions to improve the integrity of, and public confidence in, the Federal workforce. OPM also notes that the failure to address unsuitable conduct by agency employees can create a toxic work environment that itself harms recruitment and retention. The audit of the Federal Deposit Insurance Corporation, which revealed longstanding and gross abuses of authority by senior leaders which were rarely addressed, is a recent example of this phenomenon.⁹ The audit noted employees would quit or move within the agency rather than endure abusive behavior.¹⁰ OPM believes that post-appointment suitability actions will improve the integrity of the Federal workforce and thereby make agency employment more attractive to prospective employees.

OPM acknowledges commenters’ concerns that some applicants may perceive post-appointment suitability actions as increasing the risks associated with Federal employment. However, OPM notes that this rulemaking is being implemented alongside broader governmentwide efforts to strengthen merit-based recruitment and hiring, including implementation of OPM’s Merit Hiring Plan.¹¹ These initiatives are designed to attract highly qualified candidates and improve the applicant experience. OPM therefore does not agree that this final rule will deter qualified individuals from seeking Federal employment. Rather, OPM believes that maintaining appropriate standards of suitability and conduct supports public confidence in the Federal workforce while remaining fully consistent with ongoing efforts to recruit and retain talented employees.

III.B.9 Miscellaneous

OPM received individual or small sets of comments on several other miscellaneous topics. One commenter recommended that OPM amend § 731.202 to include a provision that suitability determinations and actions must be applied consistent with 5

⁶ See *Chamber of Com. of the U.S. v. U.S. Sec. & Exch. Comm’n*, 85 F.4th 760, 779 (5th Cir. 2023) (“... the APA generally requires only a minimum thirty-day comment period.”); see also *Riverbend Farms, Inc. v. Madigan*, 958 F.2d 1479, 1484 (9th Cir. 1992) (“Although the APA mandates no minimum comment period, some window of time, usually thirty days or more, is . . . allowed for interested parties to comment.”); *Nat’l Lifeline Ass’n v. Fed. Commc’ns Comm’n*, 921 F.3d 1102, 1117 (D.C. Cir. 2019) (“When substantial rule changes are proposed, a 30-day comment period is generally the shortest time period sufficient for interested persons to meaningfully review a proposed rule and provide informed comment.”).

⁷ 85 F.4th at 779–80.

⁸ OPM additionally notes that the present rulemaking largely implements an authority that was contemplated by the Merit Systems Protection Board in *Scott v. OPM* in 2011 (116 M.S.P.R. 356 (2011)). The Presidential Memorandum *Strengthening the Suitability and Fitness of the Federal Workforce* delegating authority to OPM for

post-appointment conduct suitability actions was also issued in March 2025, several months before OPM’s proposed rule. Thus, the relevant concepts are not new. Consequently, OPM does not believe extending the comment period by 14 additional days would have meaningfully enhanced the public’s ability to comment on the proposed rule.

⁹ Joon H. Kim, Jennifer K. Park, and Abena Mainoo, “Report for the Special Review Committee of the Board of Directors of the Federal Deposit Insurance Corporation,” April 2024, <https://www.fdic.gov/sites/default/files/2024-05/cleary-report-to-fdic-src.pdf>.

¹⁰ See, e.g., *id.* at 69.

¹¹ OPM-Executive Office of the President (EOP) joint memorandum, “Merit Hiring Plan” (May 29, 2025), <https://www.chcoc.gov/content/merit-hiring-plan>.

U.S.C. 2302(b), which establishes prohibited personnel practices. OPM agrees with this comment and is adding a new § 731.102(c) that provides that suitability determinations and actions must be applied consistent with the Merit Systems Principles set forth in 5 U.S.C. 2301 and with 5 U.S.C. 2302(b), setting forth prohibited personnel practices. OPM also is revising the Authority citations for part 731 to reflect this addition.

OPM received no comments on the proposed changes to the definitions at § 731.101 and is adopting them as proposed.

III.B.10 Implementation

Some commenters requested OPM provide guidance on how this rule will be implemented. See Comment 1319 for an example. This rulemaking is prospective starting at the effective date. That means that agencies cannot apply the updated language in the specific factors at § 731.202(b) when proposing or taking an action until the effective date of this rule. Similarly, agencies cannot make referrals to OPM for consideration of post-appointment conduct suitability actions until the effective date of this rule. Post-appointment conduct occurring prior to the effective date of this rule but that is referred to OPM on or after the effective date may be considered for a suitability action by OPM consistent with applicable law. Finally, conduct that was previously known by an agency at the time it made a favorable suitability determination may not be used as the sole basis for a post-appointment conduct suitability action against an appointee or employee.

IV. Expected Impact of This Rule

IV.A Statement of Need

This rule is needed to improve the efficiency, rigor, and timeliness by which OPM and agencies vet individuals for risk to the integrity and efficiency of the service. An agency currently must rely on the protracted Chapter 75 process when the agency identifies conduct that poses risk to the efficiency and integrity of the service. Agencies and managers report frustration with not being able to take a suitability action after finding an employee unsuitable for continued employment. Agencies reported they often decline to act because the Chapter 75 process is perceived as too difficult, leaving unsuitable employees in the workplace. Allowing employees who engage in gross—and at times criminal—misconduct to remain in their

positions undermines the integrity of the Federal service.

This final rule also brings suitability processes into alignment with presidential direction and congressional intent. The suitability factors that are being introduced by this rulemaking are needed to emphasize that individuals serving for, or on behalf of, the Government are expected to comply with legal and ethical obligations. Specifying these factors in the regulations will provide greater clarity to agencies as well as to applicants and employees as to the types of conduct by which an individual may be found unsuitable.

IV.B Impact

This rule permits OPM to take suitability actions for post-appointment conduct on specified positions, revises suitability action procedures, and incorporates additional suitability criteria used in making suitability determinations and taking suitability actions. Applicants, appointees, and employees in the competitive service, in the excepted service where the incumbent can be noncompetitively converted to the competitive service, and in the career Senior Executive Service will be impacted by these changes. Applicants, appointees, and employees in the excepted service will be impacted by changes incorporating new factors at § 731.202(b) as these factors are required to be used as the minimum standards of fitness for excepted service positions. Contractors and nonappropriated fund employees will also be impacted by the updated factors, as agencies must exercise due regard to the minimum fitness standards in 5 CFR part 731 and supplemental guidance for these populations as well.

OPM will also be impacted by the proposed changes as the final rule will increase the number of suitability actions OPM will be required to conduct. OPM anticipates the impact to MSPB to be neutral. Any removal action on an employee for post-appointment conduct currently processed under Chapter 75 that results in an appeal to MSPB and might be processed instead as a suitability action will still likely result in an appeal to MSPB. OPM assumes an individual willing to appeal a Chapter 75 action to MSPB would be equally willing to appeal a suitability action to MSPB. OPM acknowledges that it proposed to move the venue for suitability action appeals from the MSPB to OPM in the rulemaking *Suitability Action Appeals*. See 91 FR 5352 (February 6, 2026). Any impacts of that proposed change would, if adopted,

be addressed in a final rule in that rulemaking.

Commenter 939 suggested that OPM's acknowledgement that the number of MSPB appeals will not meaningfully change is a tacit admission that this rule will not change the number of removals. The commenter also asserted that implementing new processes would "create disruption with no real benefit." *Id.*

OPM disagrees. OPM made no admission nor gave any estimate on the total number of removals, whether stemming from Chapter 75 or suitability actions, that would result from its rulemaking. OPM simply presented the rationale for why it believes this rule will have a neutral impact on MSPB. In fact, OPM believes there are many types of adverse actions taken under Chapter 75 today that do not result in removals, such as suspensions for more than 14 days, reductions in grade, or reductions in pay, that could potentially result in a post-appointment conduct suitability action under this final rule. Because the authority to take a suitability action for the types of misconduct that result in non-removal Chapter 75 actions is new, there is insufficient data to permit OPM to reliably predict how many of those non-removal Chapter 75 actions may become removals under suitability. For that reason, OPM did not attempt to quantify how many non-removals under Chapter 75 may become removals under suitability. Additionally, many of those non-removal actions under Chapter 75 still result in appeal rights to the MSPB. Even if OPM had attempted to quantify the number of net new removals resulting from this rule, the impact on MSPB would still be neutral: an appeal to MSPB of a suspension for more than 14 days that changes to an appeal of a suitability action still counts as a single appeal to MSPB. As such, OPM disagrees with the commenter's conclusion that OPM claimed there would be no more removals with this final rule or that there would be no benefit from the rule.

Commenter 939 also suggested that the rule would not change how quickly removals can be effected as demonstrated by OPM's admission that the number of MSPB appeals would not significantly change. OPM is not certain how the commenter reached the conclusion that the speed with which an agency could effectuate a removal would be unchanged simply because the number of MSPB appeals would not meaningfully change. OPM continues to believe that the suitability action process run by OPM is faster compared to adverse action processes at agencies. There are only four potential suitability

actions, whereas adverse actions under Chapter 75 come with a multitude of various possible penalties an agency must debate internally and compare to its table of penalties, if applicable. These successive reviews and deliberations take time and slow down the process. Moreover, permitting OPM to take suitability actions against employees for post-appointment conduct, consistent with the President's direction, will allow agencies to address risk to the integrity or efficiency of the service with the process designed to protect the Government from such risk: suitability actions.

Focusing solely on the benefits of the rulemaking tied to streamlining processes and reducing costs fails to account for the rule's positive impact on the rigor of vetting processes and risk mitigation. Using suitability actions when an employee has engaged in serious misconduct instances will achieve better risk protection than Chapter 75 procedures because if the employee's conduct warrants an action, it always results in removal, instead of a lesser penalty. Suitability actions also allow for debarments to prevent individuals from immediately re-entering Federal service in a competitive service position with another agency.

Although not quantified in the analysis, debarments also deliver agencies cost savings by avoiding the costs associated with managing individuals who bounce from agency to agency with a track record of misconduct that would make them unsuitable for Federal service. The intangible benefits of holding the workforce accountable with suitability actions for serious post-appointment misconduct and not permitting individuals to avoid consequences by simply resigning or transferring agencies will provide better protection of the integrity and efficiency of the service than is currently afforded under Chapter 75 procedures. As discussed throughout this rule, OPM is unpersuaded that these changes will not have a positive impact on the efficiency and integrity of the service. OPM expects this rule to reduce time and costs while promoting an impartial and effective suitability process that produces sound decisions, adding rigor to vetting processes.

IV.C Costs

One commenter expressed concerns with OPM's impact and cost analysis, stating that the analysis did not appear to meet the requirements of OMB Circular A-4 and therefore fails to justify the rulemaking. See comment 1065. OPM disagrees. Agencies, working

with the White House, have a great deal of discretion in assessing impacts and costs based on the facts of the situation. As courts have repeatedly held, "executive orders are not judicially enforceable."¹² That is, as a general matter, executive orders and other White House guidance on the regulatory process bind executive agencies only as a matter of the internal management of the executive branch. Thus, several Federal courts have specifically held that there is no legal requirement that agencies comply with the requirements specified in E.O. 12866 and related guidance.¹³

One-time Implementation Cost: This rule will affect the operations of most Federal agencies in the Executive branch—ranging from cabinet-level departments to small independent agencies. To comply with the regulatory changes in this rule, affected agencies will need to review the rule and update their policies and procedures. For this cost analysis, the assumed average salary rate of Federal employees performing this work is the rate in 2026 for GS-14, step 5, from the Washington, DC, locality pay table (\$163,104 annual locality rate and \$78.15 hourly locality rate). We assume that the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in an assumed labor cost of \$156.30 per hour. We estimate that, in the first year following publication of the final rule, the effort to update policies and procedures will require an average of 250 hours of work by employees with an average hourly cost of \$156.30. This effort will result in estimated costs in the first year of implementation of about \$39,075 per agency, and about \$3.1 million in total governmentwide.

Savings from Fewer Chapter 75 Removals: In permitting OPM to take suitability actions for post-appointment conduct, OPM anticipates a decreased level of effort for agencies as they will refer employee cases to OPM for suitability action rather than pursue Chapter 75 removals. In fiscal years 2022 and 2023, an average of 2,452

¹² *Sierra Club v. U.S. Dep't of Energy*, 134 F.4th 568, 573 (D.C. Cir. 2025) (citing *Marin Audubon Soc'y v. Fed. Aviation Admin.*, 121 F.4th 902, 913 (D.C. Cir. 2024)); see also *Chen Zhou Chai v. Carroll*, 48 F.3d 1331, 1338–39 (4th Cir. 1995) (no private right of action to enforce executive order unless issued pursuant to a statutory mandate or delegation by Congress).

¹³ *Nat'l Mining Ass'n v. United Steel Workers*, 985 F.3d 1309, 1326–27 (11th Cir. 2021) (holding that E.O. 12866 and E.O. 13563 specifically are not judicially enforceable); *Miller v. Garland*, 674 F.Supp.3d 296, 307 (E.D. Va. 2023), *appeal dismissed*, No. 23–1604, 2024 WL 4973474 (4th Cir. July 30, 2024) (holding that E.O. 12866 is not judicially enforceable).

Federal employees were removed under Chapter 75, or Chapter 75 equivalent, procedures for post-appointment misconduct.¹⁴ OPM estimates that approximately 50 percent, or 1,226, of these Chapter 75, or Chapter 75 equivalent, removal actions presently taken by agencies could be referred to OPM for suitability actions instead. Some commenters questioned OPM's estimate or speculated whether additional employees would be subject to suitability determinations and actions, while others noted that the net estimated savings could increase or decrease depending on the accuracy of this estimate and portrayed the estimate as arbitrary. See Comments 156, 533, and 1393 for examples. This rule does not change the types of positions subject to suitability determinations and actions. Positions subject to suitability determinations and actions will continue to be those in the competitive service, in the excepted service where the incumbent can be noncompetitively converted to the competitive service, or a career appointment to a position in the SES. As such, OPM disagrees with commenters portraying the estimate as illogical or arbitrary. Moreover, the commenters appear to fail to appreciate that OPM is providing only an estimate to demonstrate that its rule provides an opportunity for cost savings. OPM acknowledges that the extent to which agencies adopt the opportunity to refer cases to OPM for removal under suitability will ultimately determine the amount of cost savings realized. If a higher percentage of removals move from being taken under Chapter 75 to being taken under suitability, the cost savings will increase. If a lower percentage of removals move from being taken under Chapter 75 to being taken under suitability, the cost savings will decrease. The estimate serves simply to demonstrate the magnitude of potential savings. OPM also believes that because Chapter 75, or Chapter 75 equivalent, removals generally involve such serious conduct that the individual would fairly likely also be unsuitable, it is possible that the estimate of 50% is conservative. OPM believes, therefore, that estimating 50% of employees subject to Chapter 75, or Chapter 75 equivalent, removals would be individuals who were also

¹⁴ This data comes from OPM's Enterprise Human Resources Integration Program's (EHRI) Data Warehouse and is analyzed using nature of action codes for terminations to identify Chapter 75 removals for misconduct. Certain data from EHRI is available to the public in summarized form on Federal Workforce Data, accessible at <https://data.opm.gov/>. However, complete raw data from EHRI is not available due to concerns about identifying employees at the individual level.

subject to suitability is fair and fully logical.

Another commenter who took issue with OPM's estimates of potential increased workload for OPM referenced a number of potential suitability actions that were not substantiated by any source and also suggested, without any basis, that each suitability case be required to be reviewed by three suitability staff members. See Comment 462. OPM is not adjusting its cost estimate based on these comments. The average number of collective hours for supervisory and HR personnel to take a Chapter 75 action is 600 hours. The cost analysis assumes an average salary rate of Federal supervisors and senior HR personnel performing this work at the 2026 rate for a GS-15, step 5, from the Washington, DC, locality pay table (\$191,850 annual locality rate and \$91.93 hourly locality rate). OPM received some comments questioning the use of the Washington, DC locality for personnel performing these functions. See Comment 533. Commenters noted that Federal employees are stationed across the country. OPM acknowledges that some personnel performing these functions may be outside of the Washington, DC locality; however, at present most Federal agencies are headquartered in the Washington, DC locality. These actions require several layers of approval that most often involve personnel at the agency headquarters. OPM assumes the total value of labor is 200 percent of the hourly wage rate, for a total average hourly cost of \$183.86. While a portion of the 600 hours would still fall to the agency to establish a fullsome referral to OPM for a suitability action, OPM anticipates that referring the matter to OPM for a suitability action would relieve the agencies of at least thirty percent of the work involved in taking a Chapter 75 action, prior to appeals. This implies total savings of \$33,095 per case and a total annual savings of \$40.6 million.

Some commenters questioned the assumption that agencies would save at least thirty percent of the work involved in taking a Chapter 75 action, prior to appeals. See Comment 156 for an example. Agencies will still be required to develop and prepare the evidence of conduct believed to warrant an unfavorable suitability determination prior to making a referral to OPM. Once a referral is made, the agencies will be relieved of the requirements, for example, to draft, review, and approve a proposed action, review and respond to any response by the employee, and draft, review, and approve a final decision. Based on OPM's own

experience, OPM believes that the labor hours required for these activities represent at least thirty percent, or approximately 180 hours, of the total estimated hours for agencies to process a Chapter 75 action, prior to appeals.

Cost Increase to Handle Agency Post-Appointment Conduct Referrals: OPM would likely need to increase the number of resources to handle the new workload from agencies' referrals for suitability determinations and actions on employees based on post-appointment conduct. Even if some agency referrals for determinations and actions on employees for post-appointment conduct do not result in a suitability action, OPM estimates it would likely need eighteen additional adjudicators performing the work at the 2026 rate for a GS-13, step 5, from the Pittsburgh, PA locality pay table (\$124,720 annual locality rate and \$59.76 hourly locality rate). OPM assumes the total value of labor is 200 percent of the hourly wage rate, for a total average hourly cost of \$119.52 and a collective annual cost of \$4.5 million for all eighteen additional employees. OPM received comments questioning the grade level and locality assumptions used for this estimate, as well as questioning whether 18 additional staff would be sufficient to handle the increased workload. See Comments 533, 004, and 938 for examples. OPM used the GS-13 grade level for its assumption because this is the grade level of OPM suitability adjudications staff currently processing suitability actions. OPM used the Pittsburgh, PA locality for its analysis because that is the primary location of OPM's suitability adjudications staff. OPM is not altering these assumptions in its analysis. In calculating the number of additional staff needed, OPM used information on the amount of labor hours needed by staff to process a suitability action along with the estimated increased number of suitability actions to determine the equivalent full-time-equivalent staff it would need. OPM appreciates the recommendations in Comment 938 to consider adding staff at a lower grade level, where possible, and will take this into consideration in refining its staffing plan to accommodate this new workload. OPM agrees with comments that the rate of agencies' adoption of the opportunity to submit post-appointment conduct suitability referrals could alter OPM's staffing needs. See, e.g., Comment 473. OPM does not, however, believe those concerns warrant instead delegating authority for post-appointment conduct suitability actions to agencies, as recommended by

commenters. As previously explained in section III.B.2.c, Agency Input in Post-Appointment Conduct Actions, OPM believes that retaining this authority will allow for the most impartial process that protects individuals and ensures consistency in implementation across the Federal Government.

Taking into account both decreases and increases in levels of effort associated with the proposed rule, on balance OPM anticipates one-time implementation costs of approximately \$3.1 million and recurring annual net cost savings governmentwide of approximately \$36.1 million.

IV.D Benefits

The expected benefits of the rule are that OPM and agencies will be able to more efficiently and appropriately vet individuals for risk to the integrity and efficiency of the service. More expeditious removal of individuals found to negatively impact the integrity or efficiency of the service will reduce risks posed by such individuals as well as costs to agencies, allowing them to spend resources on mission services rather than administrative processes. In addition, providing the option for a suitability action for post-employment conduct when an employee has engaged in serious misconduct instances will achieve better risk protection than Chapter 75 procedures because it will allow the Government to pursue debarment. Debarments prevent individuals from immediately re-entering Federal service in a competitive service position with another agency, holding individuals more accountable for misconduct and preventing them from avoiding consequences by simply resigning or transferring agencies. Post-appointment conduct suitability actions will provide better protection of the integrity and efficiency of the service than is currently afforded under Chapter 75 procedures and adds rigor to vetting processes.

In addition, OPM believes that the final rule will reinforce Merit Systems Principles, in at least two ways. *First*, the rule change creates a new § 731.102(c) which expressly states that suitability determinations and actions must be applied consistent with the Merit Systems Principles set forth in 5 U.S.C. 2301 and the prohibition against unlawful personnel practices in 5 U.S.C. 2302(b). *Second*, the rule change reinforces Merit Systems Principle 4, "[a]ll employees should maintain high standards of integrity, conduct, and concern for the public interest," by providing a mechanism to swiftly remove employees who fail to uphold

baseline standards of integrity, conduct, and concern for the public interest.

IV.E Alternatives

OPM must comply with the direction of E.O. 14210 and the Presidential Memorandum, as described in section II, Authority and Background, to establish specific suitability factors and to take suitability actions on employees when warranted and referred by agencies based on post-appointment conduct. OPM could have delegated to agencies the authority to take suitability actions against employees for post-appointment conduct. However, at this time, OPM believes reserving jurisdiction for these actions for itself will provide for governmentwide consistency in decision-making. OPM may at a later time determine to delegate this authority to the heads of agencies. See discussion in section III.B.2.c., Agency Input in Post-Appointment Conduct Actions.

For the updates to the suitability factors, OPM could have elected to establish each new criterion from E.O. 14210 as its own separate suitability factor under 5 CFR 731.202(b). The current suitability factors employ a hierarchical approach where the factors establish broad categories of conduct or behavior where discrete examples of such conduct may then fit within the general categories. For example, the criminal conduct factor establishes a broad category under which a wide range of criminal behavior may be considered, regardless of whether the conduct resulted in an arrest or conviction. Therefore, where appropriate, OPM believes adding some of the new suitability criteria required by E.O. 14210 as examples of conduct under an existing factor will be more intuitive and easier for agency suitability staff to apply in making suitability determinations.

Many commenters recommended that OPM work to improve training for Federal supervisors and HR offices on using Chapter 75 processes and suggested that doing so would eliminate the need to introduce post-appointment conduct suitability actions. See Comment 1042 for an example. OPM disagrees that such training would deliver the same benefits as gained from this rule. As noted, post-appointment conduct suitability actions provide for better protection against risk by allowing the Government to complete actions even after an individual resigns or withdraws an application and also prevents immediate re-entry through debarment. Additional training on Chapter 75 actions would not close

these gaps or deliver the same benefits as this rule.

V. Severability

If any of the provisions of this final rule is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, it shall be severable from its respective section(s) and shall not affect the remainder thereof or the application of the provision to other persons not similarly situated or to other dissimilar circumstances. For example, if a court were to invalidate any portions of this final rule revising the suitability factors, the other portions of the rule—including the portions providing that OPM may make suitability determinations for post-appointment conduct—would independently remain workable and valuable.

VI. Regulatory Compliance

VI.A Regulatory Review

OPM has examined the impact of this rule as required by Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for rules with effects of \$100 million or more in any one year. This rulemaking does not reach that threshold but has otherwise been designated as a “significant regulatory action” under section 3(f) of Executive Order 12866.

This rule is considered an Executive Order 14192 deregulatory action. We estimate that this rule generates \$30.3 million in annualized cost savings at a 7% discount rate, discounted relative to year 2024, over a perpetual time horizon.

VI.B Regulatory Flexibility Act

The Director of OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities because this rule affects suitability and fitness regulations which apply primarily to Federal agencies and employees. Although some Federal contractors may be small entities, the nature of the changes in this rulemaking are not expected to result in economic impacts to non-agency entities.

VI.C Federalism

This regulation 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 E.O. 13132, it is determined that this rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

VI.D Civil Justice Reform

This regulation meets the applicable standard set forth in section 3(a) and (b)(2) of E.O. 12988.

VI.E Unfunded Mandates Reform Act of 1995

Section 202 of 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.

VI.F 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. chapter 35) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

Depending on the population, currently suitability and vetting information is collected through the following OMB Control Numbers.

- 3206–0261 (Standard Form 85, Questionnaire for Non-Sensitive Positions)
- 3206–0258 (Standard Form 85P, Questionnaire for Public Trust Positions and SF 85P–S, Supplemental Questionnaire for Selected Positions)
- 3206–0005 (SF 86, Questionnaire for National Security Positions)

Additional information regarding these collections of information—including all current supporting materials—can be found at <https://www.reginfo.gov/public/do/PRAMain> by using the search function to enter either the title of the collection or the OMB Control Number.

On November 15, 2023, a new information collection, the Personnel Vetting Questionnaire (PVQ), was approved (OMB Control Number 3206–0279). The Defense Counterintelligence and Security Agency (DCSA) is working to implement the new information collection. OPM plans to discontinue the current information collections once the PVQ is operational.

OPM believes this rulemaking does not require any changes in any of these collections. Data gathered through these information collections fall under the system of records notice (SORN) Personnel Vetting Records System, DUSDI 02-DoD (83 FR 52420 and 83 FR 52317).

OPM's system of records titled CENTRAL–9, Personnel Investigations Records (81 FR 70191), previously covered both background investigation records and suitability adjudication records. OPM has transferred the background investigation mission and associated records to DCSA (now under DUSDI 02-DoD). Because the personnel investigations records are no longer maintained in OPM/CENTRAL–9, OPM is renaming CENTRAL–9 “OPM Suitability Adjudications Files” and is modifying it to reflect the changes in this rulemaking. (See 91 FR 38737 for more information.)

In addition, individual agencies should each have a SORN that covers the agency adjudication and referral records. Agencies should evaluate whether the agency-specific SORNs must be updated to permit sharing information with OPM for suitability referrals, OPM suitability adjudications, debarment consideration, reporting to the Central Verification System or successor systems, and any related appeal.

List of Subjects in 5 CFR Part 731

Administrative practice and procedure, Authority delegations (Government agencies), Government contracts, Government employees, Investigations.

Signing Statement

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

Office of Personnel Management

Jerson Matias,

Federal Register Liaison.

Accordingly, for the reasons stated in the preamble, OPM amends part 731 of title 5, Code of Federal Regulations as follows:

PART 731—SUITABILITY AND FITNESS

■ 1. The authority citation for part 731 is revised to read as follows:

Authority: 5 U.S.C. 1302, 2301, 2302, 3301, 7301. E.O. 10577, 19 FR 7521, 3 CFR, 1954–1958 Comp., p. 218, as amended. E.O. 13467, 73 FR 38103, 3 CFR, 2009 Comp., p. 198, as amended. E.O. 13488, 74 FR 4111, 3 CFR, 2010 Comp., p. 189, as amended. E.O. 13764, 82 FR 8115, 3 CFR, 2017 Comp., p. 243. E.O. 14210, 90 FR 9669. Presidential Memorandum of January 31, 2014, 3 CFR, 2014 Comp., p. 340. Presidential Memorandum of March 20, 2025, 90 FR 13683. 5 CFR parts 1, 2, 5, and 6.

Subpart A—Scope

- 2. Amend § 731.101 by
 - a. Revising the section heading; and
 - b. In paragraph (a), revising the definitions for “Competitive service or career Senior Executive Service” and “Core duty”.

The revisions read as follows:

§ 731.101 Definitions and purpose.

(a) * * *

Competitive service or career Senior Executive Service, for the purposes of this part, refers to a position in the competitive service, a position in the excepted service where the incumbent can be noncompetitively converted to the competitive service, or a career appointment to a position in the Senior Executive Service.

* * *
Core duty means a continuing responsibility that is of particular importance to the relevant position or the achievement of an agency's mission.
 * * *

- 3. Amend § 731.102 by adding paragraph (c) to read as follows:

§ 731.102 Implementation.

* * * * *

(c) Suitability determinations and actions under this part must be applied consistent with both the Merit Systems Principles set forth in 5 U.S.C. 2301 and with 5 U.S.C. 2302(b), which sets forth prohibited personnel practices.

- 4. Amend § 731.103 by:
 - a. Revising paragraph (a);
 - b. Redesignating paragraphs (b) through (f) as paragraphs (c) through (g);
 - c. Adding new paragraph (b); and
 - d. Revising newly redesignated paragraphs (c) and (g).

The addition and revisions read as follows:

§ 731.103 Delegation to agencies for the competitive service and career Senior Executive Service.

(a) Subject to the limitations and requirements of paragraphs (c), (e), and

(g) of this section, OPM delegates to the head of an agency authority for making a suitability determination and taking a suitability action (including limited, agency-specific debarments under § 731.205) in a case involving an *applicant* or *appointee*. In a case involving an *appointee* where the individual has converted to an *employee* in a prior competitive service or career Senior Executive Service appointment, agency heads must consider the individual to be an *employee*.

(b) In a case involving an *employee*, the head of the employee's employing agency, or designee, may, in its sole and exclusive discretion, make a proper and sufficient referral to OPM, as specified in OPM issuances as described in § 731.102(b), if the employee's conduct appears to warrant an unfavorable suitability determination.

(c) When an agency, acting under delegated authority from OPM, determines that a governmentwide debarment by OPM under § 731.204(a) may be an appropriate action, whether on an applicant, appointee, or employee, it must refer the case to OPM for debarment consideration. An agency must make a referral, but only after sufficient resolution of the suitability issue(s) to determine if a governmentwide debarment appears warranted.

* * * * *

(g) OPM retains sole jurisdiction to make a final suitability determination and take an action under this part in any case where there is evidence that there has been a material, intentional false statement, or deception or fraud, in examination or appointment. OPM also retains sole jurisdiction to make a final suitability determination and take an action under this part in any case when there is evidence that there has been knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force. An agency must refer these cases to OPM for suitability determinations and suitability actions under this authority. OPM also retains sole jurisdiction to take a suitability action under this part in any case involving an employee for post-appointment conduct. Although no prior approval is needed, notification to OPM is required if the agency wants to take, or has taken, action under its own authority (such as 5 CFR part 359 or 752) in cases involving conduct fitting within any of these factors or involving an employee for post-appointment conduct. In addition, except as limited by § 731.105(d), OPM may, in its discretion, exercise its jurisdiction

under this part in any case it deems necessary regardless of whether the agency may adjudicate under another authority.

■ 5. Amend § 731.104 by revising paragraph (c)(2)(i) to read as follows:

§ 731.104 Investigation and reciprocity requirements.

* * * * *

(c) * * *

(2) * * *

(i) The investigative record on file for the individual shows conduct that is incompatible with the core duties of the relevant position; or

* * * * *

■ 6. Revise § 731.105 to read as follows:

§ 731.105 Authority to take suitability actions in cases involving the competitive service or career Senior Executive Service.

(a) OPM or an agency acting under delegated authority may take a suitability action in connection with any application for, or appointment to, the competitive service or career Senior Executive Service. In the case of an appointee, OPM or an agency may consider conduct occurring prior to the appointment or occurring post-appointment to serve as the basis for the action.

(1) OPM's or an agency's authority to complete a suitability action continues when an application is withdrawn, when an offer of employment is withdrawn, or when an appointee separates from employment. OPM's authority to complete a suitability action continues when an employee separates from employment.

(2) OPM's or an agency's authority to take a suitability action includes the case of an application for or appointment to the competitive service or career Senior Executive Service from another type of position when a prior investigation is being reciprocally accepted as described in § 731.104(a).

(b) OPM may take a suitability action under this part against an *applicant* or *appointee* based on the criteria in § 731.202. When the basis for the action is post-appointment conduct, OPM may take a suitability action against an appointee only when there is a proper and sufficient referral by the head of the appointee's employing agency, or designee.

(c) Except as limited by § 731.103(c), (e), and (g), an agency, exercising delegated authority, may take a suitability action under this part against an *applicant* or *appointee* based on the criteria of § 731.202.

(d) Only OPM may take a suitability action under this part against an *employee* in the competitive service or

career Senior Executive Service based on the criteria of § 731.202. When the basis for the action is post-appointment conduct, OPM may take a suitability action against an employee only when there is a proper and sufficient referral by the head of the employee's employing agency, or designee.

(e) An agency may not take a suitability action against an *employee* in the competitive service or career Senior Executive Service. If the agency has information that an *employee's* conduct warrants an unfavorable suitability determination, the head of the agency, or designee, may make a proper and sufficient referral to OPM, as specified in § 731.102(b). OPM will review the referral and may take a suitability action if warranted under this part.

(f) Nothing in this part precludes an agency from taking an adverse action under the procedures and standards of part 752 of this chapter, or from terminating a probationer under the procedures of part 11 or part 359 of this chapter or under agency specific authorities. An agency must notify OPM to the extent required in § 731.103(e) and (g) if it wants to take, or has taken, action under these authorities. OPM retains the right to take a suitability action even in those cases where the agency makes an adjudicative determination under another authority.

■ 7. Amend § 731.106 by revising paragraphs (d)(1) and (f) to read as follows:

§ 731.106 Designation of public trust positions and investigative requirements.

* * * * *

(d) * * *

(1) Individuals occupying positions of employment subject to investigation are also subject to continuous vetting through periodic checks of their background at any time in accordance with standards issued by OPM. Checks must be conducted at regular intervals, based on the type of check and with consideration of position risk and sensitivity. The nature of a continuous vetting check, and any additional requirements and parameters, to include requirements for agencies to consider information related to the individual's conduct available from internal agency sources, are specified in supplemental issuances as described in § 731.102(b). An individual may be subjected to continuous vetting only if they have signed an authorization for release of information permitting a disclosure for continuous vetting purposes.

Continuous vetting for an individual in a public trust position satisfies the requirement for a periodic

reinvestigation of an individual in a public trust position as directed in E.O. 13488, as amended. An agency must ensure that each continuous vetting check is conducted and a determination made regarding continued employment. If an agency makes an unfavorable determination based on information from a continuous vetting check on an appointee, the agency may take a suitability action subject to the limitations of § 731.103(c), (e), and (g). If post-appointment conduct discovered in a continuous vetting check on an employee appears to warrant an unfavorable suitability determination, the agency may, in its sole and exclusive discretion, refer the matter to OPM for review and possible suitability action.

* * * * *

(f) *Completed investigations.* An investigation or continuous vetting check under paragraphs (c), (d), and (e) of this section supports a determination by the employing agency of whether the findings of the investigation may require referral to OPM for a potential suitability action or would justify an action by the agency under this part or under another applicable authority, such as part 359 or 752 of this chapter. Sections 731.103 and 731.105 address whether an agency may take an action under this part and whether the agency must refer the matter to OPM for a suitability action including debarment consideration.

* * * * *

Subpart B—Determinations of Suitability or Fitness; Suitability Actions in Cases Involving the Competitive Service or Career Senior Executive Service

■ 8. In § 731.202, revise and republish paragraph (b) and add paragraph (d) to read as follows:

§ 731.202 Criteria for making suitability and fitness determinations.

* * * * *

(b) *Specific factors.* Only OPM may take a suitability action considering the factors in paragraph (b)(3) or (b)(8) of this section. Agencies may use the factor in paragraph (b)(10) in applicant and appointee suitability cases but not employee cases; however, OPM may use this or any factor in employee cases. When making a suitability determination, OPM or an agency will consider only the following factors to determine if an individual is suitable. When making fitness determinations, an agency must consider all of the following factors as a minimum standard, but it may prescribe additional factors to protect the integrity

and promote the efficiency of the service, when job-related and consistent with business necessity.

(1) Misconduct or negligence in employment. This factor includes:

(i) Theft or misuse of Government resources and equipment, or negligent loss of material Government resources and equipment during employment with, or on behalf of, the Federal Government or a state, territorial, or local government; and

(ii) Refusal to certify compliance with any applicable non-disclosure obligations consistent with 5 U.S.C. 2302(b)(13) and failure to adhere to those compliance obligations in the course of Federal employment.

(2) Criminal conduct.

(3) Material, intentional false statement, or deception or fraud, in examination or appointment.

(4) Dishonest conduct.

(5) Failure to comply with financial obligations or generally applicable civil legal obligations, such as timely filing of tax returns.

(6) Excessive alcohol use, without evidence of rehabilitation, of a nature and duration that suggests the individual would be prevented from performing the duties of the position in question, or would constitute a direct threat to the property or safety of the individual or others.

(7) Illegal use of narcotics, drugs, or other controlled substances, without evidence of rehabilitation.

(8) Knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force.

(9) Violent conduct.

(10) Any statutory or regulatory bar or any other provision of law, regulation, Executive order, or other binding legal authority that prevents the lawful employment of the individual in the position in question, such as citizenship or nationality requirements.

* * * * *

(d) All persons responsible for suitability screening, review, or making suitability determinations under this part must be trained in accordance with national training standards for suitability adjudicators issued in supplemental issuances, as described in § 731.102(b).

■ 9. Amend § 731.203 by revising paragraphs (d), (e), (f), and (g) to read as follows:

§ 731.203 Suitability actions by OPM and other agencies for the competitive service or career Senior Executive Service.

* * * * *

(d) A suitability action may be taken against an applicant or an appointee to

the competitive service or career Senior Executive Service when OPM or an agency exercising delegated authority under this part finds that the applicant or appointee is unsuitable for the reasons cited in § 731.202, subject to the agency limitations of § 731.103(c), (e), and (g).

(e) In taking a suitability action against an applicant, appointee, or employee in the competitive service or career Senior Executive Service pursuant to § 731.105(a) and (d) and in accordance with 5 CFR 5.3, OPM may require an agency to execute the action.

(f) OPM may cancel any reinstatement eligibility obtained as a result of a determination based on the criteria of § 731.202.

(g) An action to remove an appointee or employee *for suitability reasons* under this part is not an action under 5 CFR part 11, 359, or 752. Where conduct covered by this part may also form the basis for an action under 5 CFR part 11, 359, or 752, an agency may take the action under 5 CFR part 11, 359, or 752, as appropriate, instead of under this part. An agency must notify OPM to the extent required in § 731.103(g) if it wants to take, or has taken, action under these authorities. OPM reserves the right to also take an action under this part.

* * * * *

■ 10. Revise § 731.206 to read as follows:

§ 731.206 Reporting requirements for investigations and suitability and fitness determinations.

An agency must report to the Central Verification System or its successor the level or nature, result, and completion date of each background investigation, reinvestigation, or enrollment in Continuous Vetting; each agency decision based on such investigation, reinvestigation, or Continuous Vetting; and any personnel action, to include suitability actions, taken based on such investigation, reinvestigation, or Continuous Vetting, as required in supplemental guidance. An agency must also report to the Central Verification System or its successor any suitability determination and action taken based on an internal agency investigation, such as a suitability action taken as a result of an Employee and Labor Relations investigation.

Subpart C—OPM Suitability Action Procedures for the Competitive Service or Career Senior Executive Service

■ 11. Revise § 731.301 to read as follows:

§ 731.301 Scope.

This subpart covers OPM-initiated suitability actions against an *applicant*, *appointee*, or *employee* in the competitive service or career Senior Executive Service and OPM suitability actions against an appointee or employee in the competitive service or career Senior Executive Service for post-appointment conduct when an agency has referred the matter to OPM to take a suitability action.

■ 12. Revise § 731.304 to read as follows:

§ 731.304 Decision.

(a) The OPM Director, or designee, will make the final decision as to whether to take a suitability action. In cases where the Director delegates decision-making authority to subordinate employees, there must be appropriate independence between the OPM employee authorized to propose the suitability action and the employee authorized to make the final decision regarding such suitability action. The OPM official authorized to make the final decision may not consult with, receive advice from, or communicate with the OPM employee who proposed the suitability action concerning the merits of the proposed action, except on notice to the respondent and as part of the record. The OPM official authorized to make the final decision is also prohibited from ex parte communications consistent with the requirements of 5 U.S.C. 557(d).

(b) If the final decision is that a suitability action shall be taken, the OPM Director or designee will instruct the agency to remove the individual or process a different suitability action. The decision regarding the final suitability action must be in writing, be dated, and inform the respondent of the reasons for the decision and that an unfavorable decision may be appealed in accordance with subpart E of this part. If the decision requires removal, the employing agency must remove the appointee or employee from the rolls within 5 workdays of receipt of OPM's final decision.

Subpart D—Agency Suitability Action Procedures for the Competitive Service or Career Senior Executive Service

■ 13. Revise § 731.404 to read as follows:

§ 731.404 Decision.

(a) The agency head, or designee, makes the final decision as to whether to take a suitability action. In cases where the agency head delegates

decision-making authority to subordinate employees, there must be appropriate independence between the employee authorized to propose the suitability action and the employee authorized to make the final decision regarding such suitability action. The official authorized to make the final decision may not consult with, receive advice from, or communicate with the employee who proposed the suitability action concerning the merits of the proposed action, except on notice to the respondent and as part of the record. The official authorized to make the final decision is also prohibited from ex parte communications consistent with the requirements of 5 U.S.C. 557(d).

(b) The decision regarding the final action must be in writing, be dated, and inform the respondent of the reasons for the decision and that an unfavorable decision may be appealed in accordance with subpart E of this part. If the decision requires removal, the employing agency must remove the appointee from the rolls within 5 workdays of the agency's decision.

[FR Doc. 2026-13154 Filed 6-29-26; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 103

[CIS No. 2855-26; Docket No. USCIS-2026-0166]

RIN 1615-AD17

Signatures on Immigration Benefit Requests

Correction

In rule document 2026-09289, beginning on page 25479 in the issue of Monday, May 11, 2026, make the following changes:

1. On page 25481, third column, second sentence of the last paragraph, "The 2016 p.m. stated" should read "The 2016 PM stated".
2. On page 25482, first column, second sentence of the first paragraph continuing from the prior page, "The 2016 p.m. also provided" should read "The 2016 PM also provided".
3. On the same page, first column, third sentence of the first paragraph continuing from the prior page, "The 2016 p.m. did not address" should read "The 2016 PM did not address".
4. On the same page, first column, second sentence of the second paragraph, "The 2016 p.m. provided" should read "The 2016 PM provided".

5. On page 25482, first column, third sentence of the second paragraph, "The 2016 p.m. also provided that" should read "The 2016 PM also provided that".

6. On the same page, first column, fourth sentence of the second paragraph, "The 2016 p.m. was incorporated" should read "The 2016 PM was incorporated".

7. On the same page 25482, first column, fifth sentence of the second paragraph, "Consistent with the 2018 p.m., USCIS" should read "Consistent with the 2018 PM, USCIS".

[FR Doc. C1-2026-09289 Filed 6-29-26; 8:45 am]

BILLING CODE 00099-10-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-7202; Project Identifier AD-2026-00546-T; Amendment 39-23393; AD 2026-13-10]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 747-8 and -8F series airplanes and Model 777-200, -200LR, -300, -300ER, and 777F series airplanes. This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7-3.98 GHz frequency band (5G Lower C-Band) while operating in Canadian airspace, and the determination that this interference may affect multiple other airplane systems using radio altimeter data, including the pitch control laws, including those that provide tail strike protection, regardless of the approach type or weather. This AD requires revising the existing airplane flight manual (AFM) to incorporate limitations prohibiting certain operations requiring radio altimeter data when operating in Canadian airspace. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 1, 2026.

The FAA must receive comments on this AD by August 14, 2026.

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

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) by searching for and locating Docket No. FAA-2026-7202; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817-222-5390; email: operationalsafety@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include Docket No. FAA-2026-7202 and Project Identifier AD-2026-00546-T at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act

(FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817-222-5390; email: operationalsafety@faa.gov. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2021-23-12, Amendment 39-21810 (86 FR 69984, December 9, 2021) (AD 2021-23-12), for all transport and commuter category airplanes equipped with a radio altimeter. AD 2021-23-12 was prompted by a determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 5G Lower C-Band, which is close to the frequency bands used by radio altimeters (4.2–4.4 GHz). AD 2021-23-12 required revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations requiring radio altimeter data when in the presence of 5G Lower C-Band interference as identified by Notices to Air Missions (NOTAMs). The agency issued AD 2021-23-12 because radio altimeter anomalies that are undetected by the automation or pilot, particularly close to the ground (e.g., landing flare), could lead to loss of continued safe flight and landing.

The FAA subsequently identified an additional hazard presented by 5G Lower C-Band interference on The Boeing Company Model 747-8F and 747-8 series airplanes and Model 777 airplanes and issued AD 2022-03-05, Amendment 39-21922 (87 FR 4150, January 27, 2022) (AD 2022-03-05). AD 2022-03-05 was prompted by the unsafe condition in AD 2021-23-12, as well as a determination that interference from the 5G Lower C-Band may affect multiple airplane systems using radio altimeter data, including the pitch control laws, including those that provide tail strike protection, regardless

of the approach type or weather. AD 2022-03-05 required revising the limitations section of the existing AFM to incorporate limitations prohibiting dispatching or releasing to airports, and approaches or landings on runways, when in the presence of 5G Lower C-Band interference as identified by NOTAMs.

After the FAA issued AD 2021-23-12 and AD 2022-03-05, the agency determined that additional limitations were needed due to the continued deployment of new 5G Lower C-Band base stations whose signals were expected to cover most of the contiguous U.S., as well as the determination that radio altimeter anomalies could lead to increased flightcrew workload and flightcrew desensitization to warnings. Therefore, the FAA issued AD 2023-10-02, Amendment 39-22438 (88 FR 34065, May 26, 2023) (AD 2023-10-02), to supersede AD 2021-23-12, and the FAA issued AD 2023-12-05, Amendment 39-22463 (88 FR 40065, June 21, 2023) (AD 2023-12-05) to supersede AD 2022-03-05.

Currently, AD 2023-12-05 requires revising the limitations section of the existing AFM to incorporate limitations prohibiting dispatching or releasing to airports, and approaches or landings on runways, in the entire contiguous U.S. airspace instead of only in areas identified by NOTAM; however, AD 2023-12-05 permits radio altimeter tolerant airplanes to perform these operations at 5G Lower C-Band mitigated airports as identified in an FAA Domestic Notice.

Actions Since AD 2023-12-05 Was Issued

Since the FAA issued AD 2023-12-05, Transport Canada, which is the aviation authority for Canada, issued AD CF-2024-14, dated May 15, 2024 (Transport Canada AD CF-2024-14), to correct an unsafe condition for all transport and commuter category airplanes with a radio altimeter. Transport Canada AD CF-2024-14 states that in July 2023, Innovation, Science and Economic Development Canada (ISED), Canada's spectrum regulator, published Standard Radio System Plans (SRSP)-520 Issue 3¹ and Radio Standard Specifications (RSS)-192 Issue 5,² which define the spectrum

environment for the 3.45–3.90 GHz frequency band in Canada. Transport Canada AD CF-2024-14 further states that spectrum auctions for the 3.45–3.65 GHz and the 3.65–3.9 GHz band were completed in 2021 and 2023, respectively.

In July 2023, ISED implemented measures to mitigate Lower C-Band interference to radio altimeters, which provide the Canadian airspace greater protection from 5G Lower C-Band interference to radio altimeters as compared to the Lower C-Band environment in the contiguous U.S. airspace. These measures include exclusion and protection zones and airport effective isotropic radiated power (EIRP) elevation mask (a restriction that requires nearby cell tower signals to be angled downward so they do not interfere with aircraft altimeters) at certain airport runways covering the majority of air traffic in Canada, as well as nationwide reduced fundamental power emissions based on the degree of antenna uptilt above the horizon to minimize emissions from 5G base stations toward aircraft.

In late March 2026, Transport Canada notified the FAA that, beginning July 1, 2026, changes in the 5G Lower C-band protection mitigations established by ISED in 2023 would result in a more severe 5G interference environment in the Canadian airspace. Exclusion and protection zones at airports will no longer exist and updates to the airport EIRP elevation mask, nationwide tilt restriction, emitter height limitation and reduced spurious emissions will only protect airplanes that are radio altimeter tolerant. The change in mitigations will result in an unsafe condition in the Canadian 5G interference environment.

Transport Canada determined that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.45–3.98 GHz frequency band. Transport Canada based its determination on the same unsafe condition found by the FAA in AD 2023-10-02. As a result, Transport Canada AD CF-2024-14 requires revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations requiring radio altimeter data, due to the presence of 5G Lower C-Band interference, while operating in Canadian airspace. As terminating action for the operating limitations, Transport Canada AD CF-2024-14 provides that operators may

¹ <https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/standard-radio-system-plans/srsp-520-technical-requirements-fixed-and-or-mobile-systems-including-flexible-use-broadband-systems>.

² [https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/radio-equipment-standards/radio-](https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/radio-equipment-standards/radio-standards-specifications-rss/rss-192-flexible-use-broadband-equipment-operating-band-3450-3900-mhz)

[standards-specifications-rss/rss-192-flexible-use-broadband-equipment-operating-band-3450-3900-mhz](https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/radio-equipment-standards/radio-standards-specifications-rss/rss-192-flexible-use-broadband-equipment-operating-band-3450-3900-mhz).

upgrade their radio altimeters to demonstrate the tolerances for emissions as specified in Transport Canada AD CF-2024-14.

Boeing subsequently conducted an analysis of the expected changes in the 5G Lower C-Band environment in Canada and the effects of interference with radio altimeters with respect to the Boeing fleet. In May 2026, Boeing reported that certain airplane configurations will not demonstrate tolerance to radio altimeter interference in the new 5G environment in Canada. Therefore, based on this information, the FAA determined that the unsafe condition identified in AD 2023-12-05 exists for Model 747-8F and 747-8 series airplanes and Model 777 airplanes when operating in the Canadian airspace. As a result, operating limitations similar to the limitations required by AD 2023-12-05 are necessary.

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

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

For non-radio altimeter tolerant airplanes, this AD requires, before further flight in Canadian airspace, revising the existing AFM to incorporate limitations prohibiting dispatching or releasing to airports, and approaches or landings on runways when operating in Canadian airspace. This AD provides that modifying the airplane from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane terminates the AFM operating limitations for that airplane.

While AD 2023-12-05 also prohibits dispatching or releasing to airports and approaches or landings on runways for radio altimeter tolerant airplanes except at 5G Lower C-Band mitigated airports, this AD has no prohibitions for radio altimeter tolerant airplanes. The interference environment at Canadian airports after July 1, 2026, will be mitigated enough such that those prohibitions are not necessary for radio altimeter tolerant airplanes. The FAA also notes that most Boeing Model 747-8, 747-8F, and 777 radio altimeter tolerant airplanes are not subject to the prohibitions in AD 2023-12-05 under

the provisions of an FAA-approved AMOC.

An airplane that is a radio altimeter tolerant airplane using a method approved by the FAA for AD 2023-12-05 is also a radio altimeter tolerant airplane for the purposes of paragraph (g)(1) of this AD. Alternative methods of compliance (AMOC) listed in paragraph (j)(3) of this AD are approved for this AD.

Differences From Transport Canada AD CF-2024-14

Transport Canada AD CF-2024-14 specifies the fundamental emissions are in the 3.45–3.98 GHz frequency band, while this AD specifies the 3.7–3.98 GHz frequency band. AD 2023-10-02 and AD 2023-12-05 identified an unsafe condition from wireless broadband transmissions in the 3.7–3.98 GHz frequency band, and this AD is based on that same determination. In addition, an airplane determined to be a radio altimeter tolerant airplane for the purposes of AD 2023-12-05, which has demonstrated the performance tolerances for fundamental emissions within the 3.7–3.98 GHz frequency band, would also be a radio altimeter tolerant airplane for purposes of this AD. Frequencies less than 3.7 GHz are further away from the frequency bands used by radio altimeters (4.2–4.4 GHz), so an airplane determined to be tolerant in the range of 3.7–3.98 GHz is also tolerant to emissions less than 3.7 GHz.

Interim Action

The FAA considers this AD to be an interim action. The FAA may consider further rulemaking if the Canadian 5G C-Band interference environment changes or if Canada issues an operational rule to address 5G C-Band interference with radio altimeters.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 5G Lower C-Band. This interference may affect other airplane systems using radio altimeter data, including the pitch control laws, including those that provide tail strike protection, regardless of the approach type or weather, which, in combination with multiple flight deck effects, could lead to loss of continued safe flight and landing. The urgency is based on a change in the 5G Lower C-Band environment in Canada, which is scheduled to occur on July 1, 2026. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA notes that since operators must comply with this AD before further flight in Canadian airspace, airplanes that do not operate in Canada will not have to comply and therefore will have no costs under this AD.

The FAA estimates that this AD affects 390 airplanes of U.S. registry. The FAA expects that many of the affected airplanes have upgraded radio altimeters; therefore, the FAA estimates the total number of airplanes affected by this AD to be less than the total fleet size provided in this AD. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
AFM revision for non-RAT air-planes.	1 work-hour × \$85 per hour = \$85	\$0	\$85	Up to \$33,150.

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Action	Labor cost	Parts cost	Cost per product
Modification (radio altimeter replacement option).	.....	.....	Up to \$120,000 (includes parts and labor).
Modification (filter addition option).	24 work-hours × \$85 per hour = \$2,040 per filter.	\$12,000 per filter	Up to \$14,040 (includes parts and labor).

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–13–10 The Boeing Company:
Amendment 39–23393; Docket No. FAA–2026–7202; Project Identifier AD–2026–00546–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 1, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 747–8 and –8F series airplanes, and Model 777–200, –200LR, –300, –300ER, and 777F series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7–3.98 GHz frequency band (5G Lower C-Band) when operating in Canadian airspace, and the determination that this interference may affect other airplane systems using radio altimeter data, including the pitch control laws, including those that provide tail strike protection, regardless of the approach type or weather. The FAA is issuing this AD to address missing or erroneous radio altimeter data, which, in combination with multiple flight deck effects, could lead to loss of continued safe flight and landing.

(f) Compliance

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

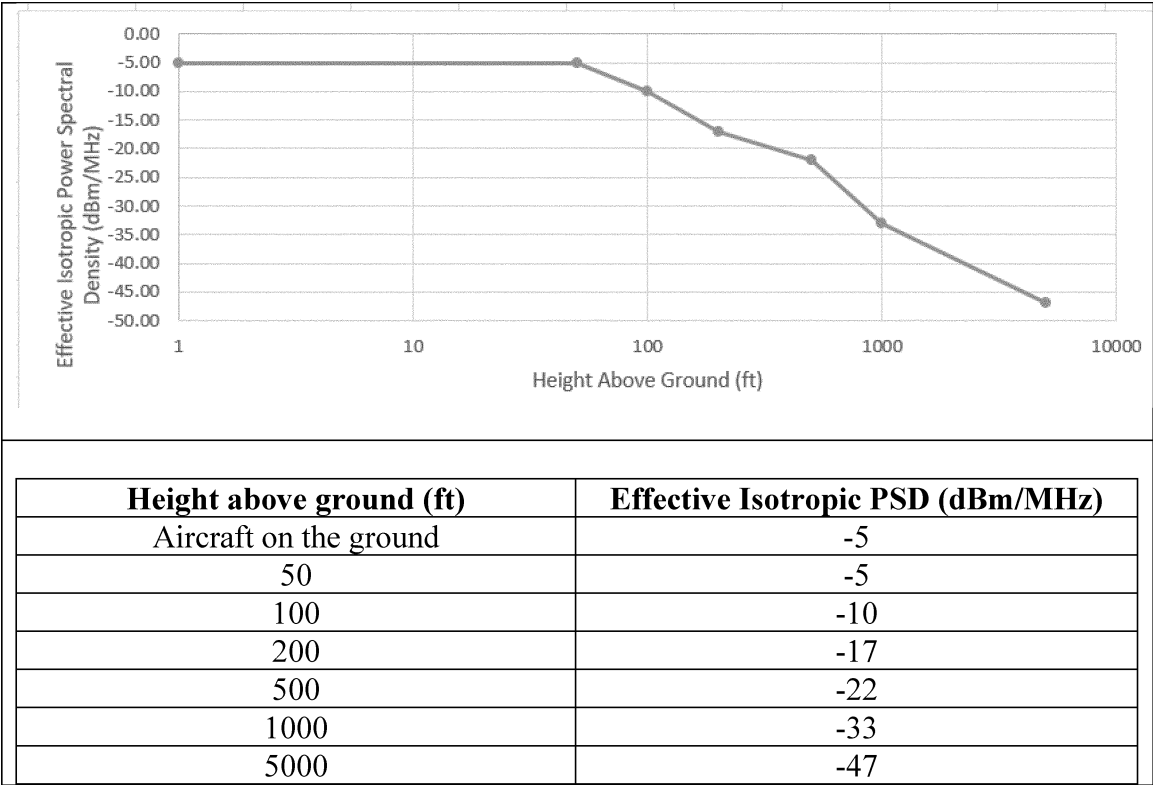
(g) Definitions

(1) For purposes of this AD, a "radio altimeter tolerant airplane" is one for which the radio altimeter, as installed, demonstrates the tolerances specified in paragraphs (g)(1)(i) and (ii) of this AD, using a method approved by the FAA. No actions are required by this AD for radio altimeter tolerant airplanes.

(i) Tolerance to radio altimeter interference, for the fundamental emissions (3.7–3.98 GHz), at or above the power spectral density (PSD) curve threshold specified in figure 1 to paragraph (g)(1)(i) of this AD.

BILLING CODE 4910–13–P

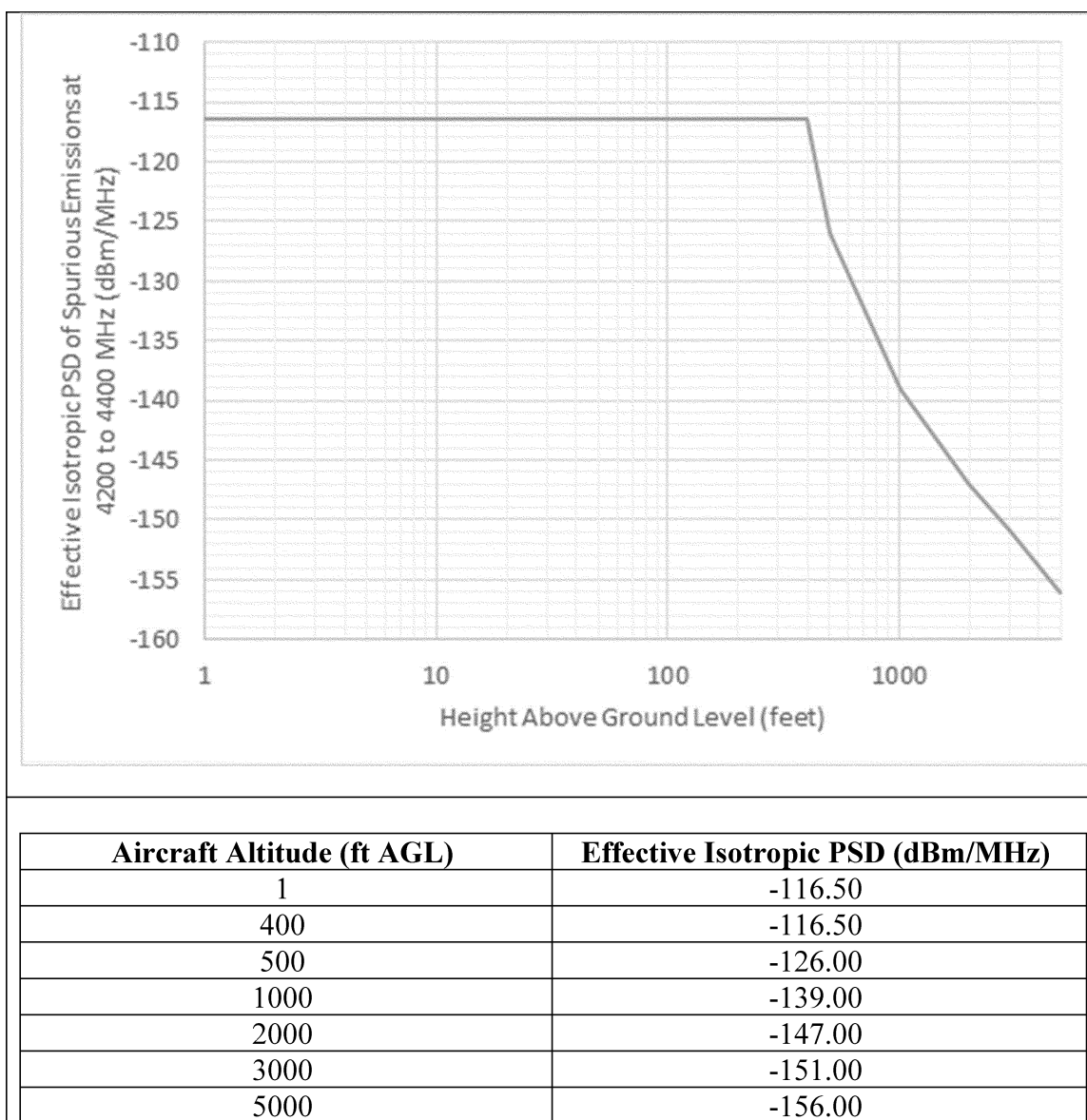
**Figure 1 to Paragraph (g)(1)(i)—
Fundamental Effective Isotropic PSD at
Outside Interface of Aircraft Antenna**



(ii) Tolerance to radio altimeter interference, for the spurious emissions (4.2–4.4 GHz), at or above the PSD curve threshold

specified in figure 2 to paragraph (g)(1)(ii) of this AD.
BILLING CODE 4910–13–P

Figure 2 to Paragraph (g)(1)(ii)—Spurious Effective Isotropic PSD at Outside Interface of Aircraft Antenna

**BILLING CODE 4910-13-C**

(2) For purposes of this AD, a “non-radio altimeter tolerant airplane” is one for which the radio altimeter, as installed, does not demonstrate the tolerances specified in paragraphs (g)(1)(i) and (ii) of this AD.

(h) Airplane Flight Manual (AFM) Revision

For non-radio altimeter tolerant airplanes: Before further flight in Canadian airspace, revise the Limitations Section of the existing AFM to include the information specified in figure 3 to paragraph (h) of this AD. This may

be done by inserting a copy of figure 3 to paragraph (h) of this AD into the existing AFM.

Figure 3 to Paragraph (h)—AFM Limitations Revision for Non-Radio Altimeter Tolerant Airplanes in Canadian Airspace

(As required by AD 2026-13-10)

Approaches and Landings in the Presence of Radio Altimeter 5G Lower C-Band Interference (Canadian Airspace)

Due to the presence of 5G Lower C-Band wireless broadband interference, dispatching or releasing to airports, and approaches or landings on runways, in Canadian airspace is prohibited.

(i) Terminating Action for AFM Revision

(1) Modifying the airplane from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane terminates the limitations in paragraph (h) of this AD for that airplane.

(2) After modifying the airplane to a radio altimeter tolerant airplane, the limitations specified by paragraph (h) of this AD may be removed from the AFM.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(3) The following AMOCs approved previously for AD 2023-12-05, Amendment 39-22463 (88 FR 40065, June 21, 2023) are approved as AMOCs for paragraph (g)(1) of this AD: FAA AMOC letters 720-23-00137, 720-23-00138, 720-23-00169, and 720-25-00031.

(k) Additional Information

For more information about this AD, contact Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817-222-5390; email: operationalsafety@faa.gov.

(l) Material Incorporated by Reference

None.

Issued on June 25, 2026.

Brian Knaup,

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

[FR Doc. 2026-13216 Filed 6-26-26; 4:15 pm]

BILLING CODE 4910-13-P

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

[Docket No. FAA-2026-7203; Project Identifier AD-2026-00547-T; Amendment 39-23394; AD 2026-13-11]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 787-8, 787-9, and 787-10 airplanes. This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7-3.98 GHz frequency band (5G Lower C-Band) while operating in Canadian airspace, and the determination that as a result of this interference, certain airplane systems may not properly transition from AIR to GROUND mode when landing on certain runways, resulting in a longer landing distance than normal due to the effect on thrust reverser deployment, speedbrake deployment, and increased idle thrust. This AD requires revising the existing airplane flight manual (AFM) to incorporate limitations prohibiting certain operations requiring radio altimeter data when operating in Canadian airspace. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 1, 2026.

The FAA must receive comments on this AD by August 14, 2026.

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

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

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) by searching for and locating Docket No. FAA-2026-7203; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817-222-5390; email: operationalsafety@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include Docket No. FAA-2026-7203 and Project Identifier AD-2026-00547-T at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817-222-5390; email: operationalsafety@faa.gov. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2021-23-12, Amendment 39-21810 (86 FR 69984, December 9, 2021) (AD 2021-23-12), for all transport and commuter category airplanes equipped with a radio altimeter. AD 2021-23-12 was prompted by a determination that radio altimeters cannot be relied upon to perform their intended function if they

experience interference from wireless broadband operations in the 5G Lower C-Band, which is close to the frequency bands used by radio altimeters (4.2–4.4 GHz). AD 2021–23–12 required revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations requiring radio altimeter data when in the presence of 5G Lower C-Band interference as identified by Notices to Air Missions (NOTAMs). The agency issued AD 2021–23–12 because radio altimeter anomalies that are undetected by the automation or pilot, particularly close to the ground (e.g., landing flare), could lead to loss of continued safe flight and landing.

The FAA subsequently identified an additional hazard presented by 5G Lower C-Band interference on Boeing Model 787–8, 787–9, and 787–10 airplanes and issued AD 2022–02–16, Amendment 39–21913 (87 FR 2692, January 19, 2022) (AD 2022–02–16). AD 2022–02–16 was prompted by the unsafe condition in AD 2021–23–12, as well as a determination that, during landings, as a result of this interference, certain airplane systems may not properly transition from AIR to GROUND mode when landing on certain runways, resulting in degraded deceleration performance and longer landing distance than normal due to the effect on thrust reverser deployment, speedbrake deployment, and increased idle thrust. AD 2022–02–16 required revising the limitations and operating procedures sections of the existing AFM to incorporate limitations prohibiting certain landings and the use of certain minimum equipment list (MEL) items, and to incorporate operating procedures for calculating landing distances, when in the presence of 5G Lower C-Band interference as identified by NOTAM.

After the FAA issued AD 2021–23–12 and AD 2022–02–16, the agency determined that additional limitations were needed due to the continued deployment of new 5G Lower C-Band base stations whose signals were expected to cover most of the contiguous U.S., as well as the determination that radio altimeter anomalies could lead to increased flightcrew workload and flightcrew desensitization to warnings. Therefore, the FAA issued AD 2023–10–02, Amendment 39–22438 (88 FR 34065, May 26, 2023) (AD 2023–10–02), to supersede AD 2021–23–12, and the FAA issued AD 2023–12–10, Amendment 39–22468 (88 FR 40071, June 21, 2023) (AD 2023–12–10), to supersede AD 2022–02–16.

Currently, AD 2023–12–10 requires revising the limitations section of the

existing AFM to incorporate limitations prohibiting certain landings and the use of certain MEL items, in the entire contiguous U.S. airspace instead of only in areas identified by NOTAM; however, AD 2023–12–10 permits radio altimeter tolerant airplanes to perform these operations at 5G Lower C-Band mitigated airports as identified in an FAA Domestic Notice.

Actions Since AD 2023–12–10 Was Issued

Since the FAA issued AD 2023–12–10, Transport Canada, which is the aviation authority for Canada, issued AD CF–2024–14, dated May 15, 2024 (Transport Canada AD CF–2024–14), to correct an unsafe condition for all transport and commuter category airplanes with a radio altimeter. Transport Canada AD CF–2024–14 states that in July 2023, Innovation, Science and Economic Development Canada (ISED), Canada's spectrum regulator, published Standard Radio System Plans (SRSP)–520 Issue 3¹ and Radio Standard Specifications (RSS)–192 Issue 5,² which define the spectrum environment for the 3.45–3.90 GHz frequency band in Canada. Transport Canada AD CF–2024–14 further states that spectrum auctions for the 3.45–3.65 GHz and the 3.65–3.9 GHz band were completed in 2021 and 2023, respectively.

In July 2023, ISED implemented measures to mitigate Lower C-Band interference to radio altimeters, which provide the Canadian airspace greater protection from 5G Lower C-Band interference to radio altimeters as compared to the Lower C-Band environment in the contiguous U.S. airspace. These measures include exclusion and protection zones and airport effective isotropic radiated power (EIRP) elevation mask (a restriction that requires nearby cell tower signals to be angled downward so they do not interfere with aircraft altimeters) at certain airport runways covering the majority of air traffic in Canada, as well as nationwide reduced fundamental power emissions based on the degree of antenna uptilt above the horizon to minimize emissions from 5G base stations toward aircraft.

¹ <https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/standard-radio-system-plans/srsp-520-technical-requirements-fixed-and-or-mobile-systems-including-flexible-use-broadband-systems>.

² <https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/radio-equipment-standards/radio-standards-specifications-rss/rss-192-flexible-use-broadband-equipment-operating-band-3450-3900-mhz>.

In late March 2026, Transport Canada notified the FAA that, beginning July 1, 2026, changes in the 5G Lower C-Band protection mitigations established by ISED in 2023 would result in a more severe 5G interference environment in the Canadian airspace. Exclusion and protection zones at airports will no longer exist and updates to the airport EIRP elevation mask, nationwide tilt restriction, emitter height limitation and reduced spurious emissions will only protect airplanes that are radio altimeter tolerant. The change in mitigations will result in an unsafe condition in the Canadian 5G interference environment.

Transport Canada determined that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.45–3.98 GHz frequency band. Transport Canada based its determination on the same unsafe condition found by the FAA in AD 2023–10–02. As a result, Transport Canada AD CF–2024–14 requires revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations requiring radio altimeter data, due to the presence of 5G Lower C-Band interference, while operating in Canadian airspace. As terminating action for the operating limitations, Transport Canada AD CF–2024–14 provides that operators may upgrade their radio altimeters to demonstrate the tolerances for emissions as specified in Transport Canada AD CF–2024–14.

Boeing subsequently conducted an analysis of the expected changes in the 5G Lower C-Band environment in Canada and the effects of interference with radio altimeters with respect to the Boeing fleet. In May 2026, Boeing reported that certain airplane configurations will not demonstrate tolerance to radio altimeter interference in the new 5G environment in Canada. Therefore, based on this information, the FAA determined that the unsafe condition identified in AD 2023–12–10 exists for Model 787–8, 787–9, and 787–10 airplanes when operating in the Canadian airspace. As a result, operating limitations similar to the limitations required by AD 2023–12–10 are necessary.

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

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

For non-radio altimeter tolerant airplanes, this AD requires, before further flight in Canadian airspace, revising the existing AFM to incorporate limitations prohibiting certain landings and the use of certain MEL items when operating in Canadian airspace. This AD provides that modifying the airplane from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane terminates the AFM operating limitations for that airplane.

While AD 2023–12–10 also prohibits certain landings and the use of certain MEL items for radio altimeter tolerant airplanes except at 5G Lower C-Band mitigated airports, this AD has no prohibitions for radio altimeter tolerant airplanes. The interference environment at Canadian airports after July 1, 2026, will be mitigated enough such that those prohibitions are not necessary for radio altimeter tolerant airplanes. The FAA also notes that most Model 787–8, 787–9, and 787–10 radio altimeter tolerant airplanes are not subject to the prohibitions in AD 2023–12–10 under the provisions of an FAA-approved AMOC.

An airplane that is a radio altimeter tolerant airplane using a method approved by the FAA for AD 2023–12–10 is also a radio altimeter tolerant airplane for the purposes of paragraph (g)(1) of this AD. Alternative methods of compliance (AMOC) listed in paragraph (j)(3) of this AD are approved for this AD.

Differences From Transport Canada AD CF–2024–14

Although Transport Canada AD CF–2024–14 specifies the fundamental emissions are in the 3.45–3.98 GHz frequency band, the FAA has identified an unsafe condition from wireless broadband transmissions in the 3.7–3.98 GHz frequency band. AD 2023–10–02 and AD 2023–12–10 identified an unsafe condition from wireless broadband transmissions in the 3.7–3.98 GHz frequency band, and this AD is

based on that same determination. In addition, an airplane determined to be a radio altimeter tolerant airplane for the purposes of AD 2023–12–10, which has demonstrated the performance tolerances for fundamental emissions within the 3.7–3.98 GHz frequency band, would also be a radio altimeter tolerant airplane for purposes of this AD. Frequencies less than 3.7 GHz are further away from the frequency bands used by radio altimeters (4.2 to 4.4 GHz), so an airplane determined to be tolerant in the range of 3.7–3.98 GHz is also tolerant to emissions less than 3.7 GHz.

Interim Action

The FAA considers this AD to be an interim action. The FAA may consider further rulemaking if the Canadian 5G C-Band interference environment changes or if Canada issues an operational rule to address 5G C-Band interference with radio altimeters.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in

the 5G Lower C-Band. During landings, as a result of this interference, certain airplane systems may not properly transition from AIR to GROUND mode when landing on certain runways, resulting in a longer landing distance than normal due to the effect on thrust reverser deployment, speedbrake deployment, and increased idle thrust, which could lead to a runway excursion. The urgency is based on a change in the 5G Lower C-Band environment in Canada, which is scheduled to occur on July 1, 2026. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA notes that since operators must comply with this AD before further flight in Canadian airspace, airplanes that do not operate in Canada will not have to comply and therefore will have no costs under this AD.

The FAA estimates that this AD affects 192 airplanes of U.S. registry. The FAA expects that many of the affected airplanes have upgraded radio altimeters; therefore, the FAA estimates the total number of airplanes affected by this AD to be less than the total fleet size provided in this AD. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
AFM revision for non-RAT airplanes.	1 work-hour × \$85 per hour = \$85	\$0	\$85	Up to \$16,320.

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Action	Labor cost	Parts cost	Cost per product
Modification (radio altimeter replacement option).			Up to \$120,000 (includes parts and labor).

ESTIMATED COSTS FOR OPTIONAL ACTIONS—Continued

Action	Labor cost	Parts cost	Cost per product
Modification (filter addition option).	24 work-hours × \$85 per hour = \$2,040 per filter.	\$12,000 per filter	Up to \$14,040 (includes parts and labor).

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–13–11 The Boeing Company:
Amendment 39–23394; Docket No. FAA–2026–7203; Project Identifier AD–2026–00547–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 1, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 787–8, 787–9, and 787–10 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7–3.98 GHz frequency band (5G Lower C-Band) when operating in Canadian airspace, and the determination that as a result of this interference, certain airplane systems may not properly transition from AIR to GROUND mode when landing on certain runways, resulting in a longer landing distance than normal due to the effect on thrust reverser deployment, speedbrake deployment, and increased idle thrust. The FAA is issuing this AD to address degraded deceleration performance and longer landing distance, which could lead to a runway excursion.

(f) Compliance

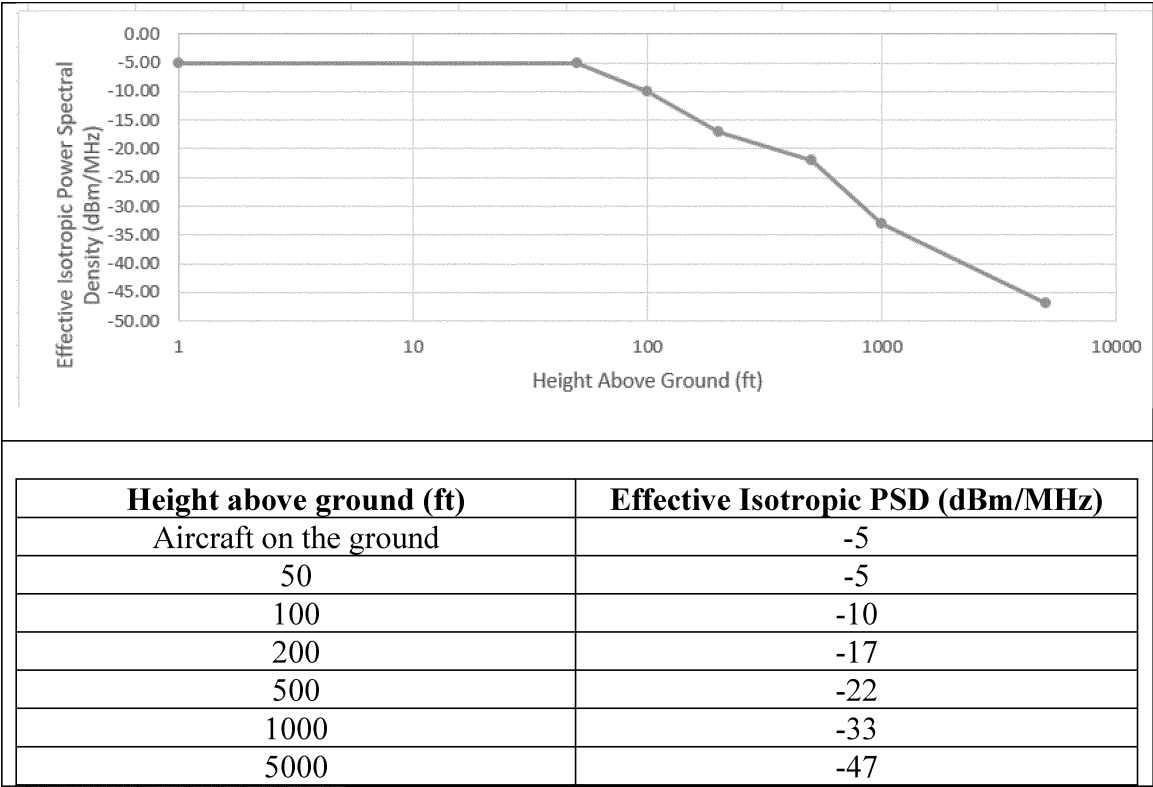
Comply with this AD within the compliance times specified, unless already done.

(g) Definitions

(1) For purposes of this AD, a “radio altimeter tolerant airplane” is one for which the radio altimeter, as installed, demonstrates the tolerances specified in paragraphs (g)(1)(i) and (ii) of this AD, using a method approved by the FAA. No actions are required by this AD for radio altimeter tolerant airplanes.

(i) Tolerance to radio altimeter interference, for the fundamental emissions (3.7–3.98 GHz), at or above the power spectral density (PSD) curve threshold specified in figure 1 to paragraph (g)(1)(i) of this AD.

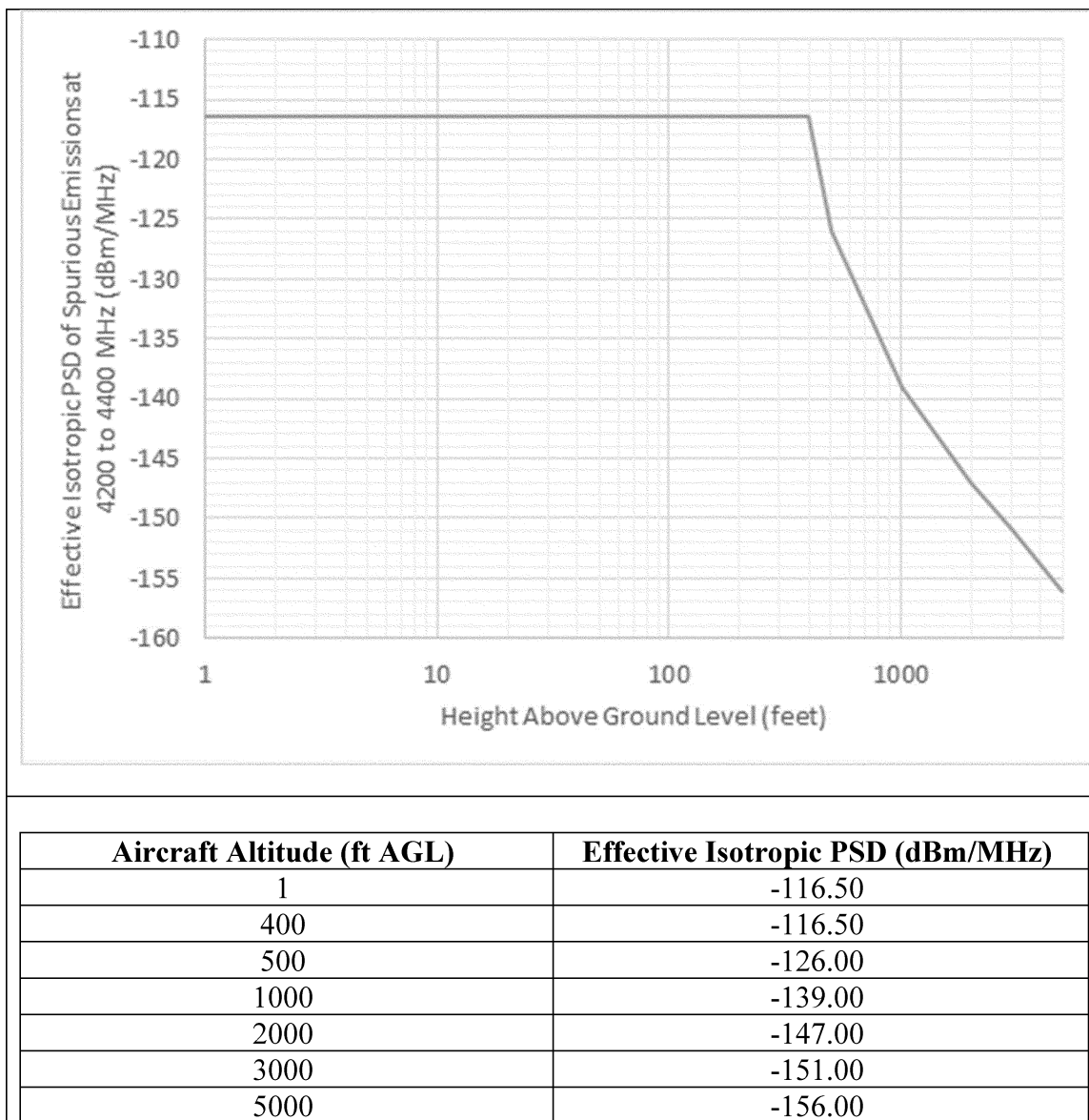
**Figure 1 to Paragraph (g)(1)(i)—
Fundamental Effective Isotropic PSD at
Outside Interface of Aircraft Antenna**



BILLING CODE 4910-13-P

(ii) Tolerance to radio altimeter interference, for the spurious emissions (4.2-4.4 GHz), at or above the PSD curve threshold specified in figure 2 to paragraph (g)(1)(ii) of this AD.

Figure 2 to Paragraph (g)(1)(ii)—Spurious Effective Isotropic PSD at Outside Interface of Aircraft Antenna



(2) For purposes of this AD, a “non-radio altimeter tolerant airplane” is one for which the radio altimeter, as installed, does not

demonstrate the tolerances specified in paragraphs (g)(1)(i) and (ii) of this AD.

(3) Runway condition codes are defined in figure 3 to paragraph (g)(3) of this AD.

Figure 3 to Paragraph (g)(3)—Runway Condition Codes

Runway Condition Code	Runway Condition Description	Reported Braking Action
6	Dry	Dry
5	Wet (smooth, grooved, or porous friction course (PFC)) or frost 3 mm (0.12 inch) or less of: water, slush, dry snow, or wet snow	Good
4	Compacted snow at or below -15°C (5°F) outside air temperature (OAT)	Good to medium
3	Wet (slippery), dry snow, or wet snow (any depth) over compacted snow Greater than 3 mm (0.12 inch) of: dry snow or wet snow Compacted snow at OAT warmer than -15°C (5°F)	Medium
2	Greater than 3 mm (0.12 inch) of: water or slush	Medium to poor
1	Ice	Poor
0	Wet ice, water on top of compacted snow, dry snow, or wet snow over ice	Nil

(h) Airplane Flight Manual (AFM) Revision

For non-radio altimeter tolerant airplanes: Before further flight in Canadian airspace, do the actions specified in paragraphs (h)(1) and (2) of this AD.

(1) Revise the Limitations Section of the existing AFM to include the information specified in figure 4 to paragraph (h)(1) of this AD. This may be done by inserting a copy of figure 4 to paragraph (h)(1) of this AD into the existing AFM.

Figure 4 to Paragraph (h)(1)—AFM Limitations Revision for Non-Radio Altimeter Tolerant Airplanes in Canadian Airspace

(As required by AD 2026-13-11)

Radio Altimeter 5G Lower C-Band Interference, Landing Distance (Canadian Airspace)

Due to the presence of 5G Lower C-Band wireless broadband interference, when dispatching or releasing to or landing on runways in Canadian airspace, the following limitations are required.

Minimum Equipment List (MEL)
Dispatch or release with any of the following MEL items is prohibited:

- 32-42-02 – Antiskid Control Systems
- 32-45-01 – Wheel Brake Systems
- 32-45-01-01 – Wheel Brake Systems, Electric Brake Actuator Systems

Landing Operations on Runways with Condition Code 1 or 0
Dispatch or releasing to or landing on runways with a runway condition code of 1 or 0 is prohibited.

Landing Distance Calculations for Runway Condition Codes 6 through 2
Operators must follow the 5G C-Band Interference Landing Distance Procedure contained in the Operating Procedures Section of this AFM.

(2) Revise the Operating Procedures Section of the existing AFM to include the information specified in figure 5 to paragraph (h)(2) of this AD. This may be done by inserting a copy of figure 5 to paragraph

(h)(2) of this AD into the existing AFM. An AFM with an Operating Procedures Section that complies with paragraph (h)(2) of AD 2023–12–10, Amendment 39–22468 (88 FR 40071, June 21, 2023) is acceptable for

compliance with the requirements of this paragraph of this AD.

Figure 5 to Paragraph (h)(2)—AFM Operating Procedures Revision

(As required by AD 2026-13-11)

5G C-Band Interference Landing Distance

When dispatching or releasing to or landing on runways with a runway condition code of 6 through 2:

- Dispatch or Release:
 - No additional landing distance calculations are required for runway condition codes 6 and 5.
 - For runway condition codes 4 through 2, use Table 1 through 6, as applicable, to determine the unfactored landing distance, applying all adjustments. Multiply the resulting unfactored landing distance by 1.15 to obtain the minimum required landing distance.

Table 1:

787-10 / TRENT 1000									
Landing Distances and Adjustments (Feet)									
Runway Condition Code	Reference Distance	Weight Adjustment	Altitude Adjustment	Wind Adjustment per 10 Knots	Slope Adjustment per 1%	Temperature Adjustment per 10°C	Approach Speed Adjustment	Reverse Thrust Adjustment	
	440,000 LB Landing Weight	Per 10,000 LB Above / Below 440,000 LB	Per 1,000 ft	Head / Tail Wind	Down / Up Hill	Above / Below ISA	per 5 KTS above VREF	One Reverser	No Reverser
6	5640	110 / -90	160	-240 / 790	90 / -80	150 / -150	230	0	0
5	7680	170 / -150	330	-430 / 1570	250 / -210	280 / -270	390	0	0
4	8450	170 / -150	340	-450 / 1610	330 / -270	280 / -280	390	0	0
3	9180	170 / -150	340	-470 / 1680	440 / -340	290 / -280	390	0	0
2	12180	280 / -250	560	-770 / 2850	970 / -690	480 / -460	540	0	0

Table 2:

787-10 / GENx									
Landing Distances and Adjustments (Feet)									
Runway Condition Code	Reference Distance	Weight Adjustment	Altitude Adjustment	Wind Adjustment per 10 Knots	Slope Adjustment per 1%	Temperature Adjustment per 10°C	Approach Speed Adjustment	Reverse Thrust Adjustment	
	440,000 LB Landing Weight	Per 10,000 LB Above / Below 440,000 LB	Per 1,000 ft	Head / Tail Wind	Down / Up Hill	Above / Below ISA	per 5 KTS above VREF	One Reverser	No Reverser
6	5670	110 / -90	170	-240 / 800	90 / -80	150 / -150	230	0	0
5	7760	160 / -150	350	-440 / 1590	260 / -220	280 / -280	400	0	0
4	8550	160 / -150	350	-450 / 1640	340 / -280	290 / -280	400	0	0
3	9300	170 / -150	360	-480 / 1710	450 / -350	290 / -290	400	0	0
2	12400	280 / -250	610	-790 / 2930	1010 / -710	480 / -470	540	0	0

Table 3:

787-9 / TRENT 1000									
Landing Distances and Adjustments (Feet)									
Runway Condition Code	Reference Distance	Weight Adjustment	Altitude Adjustment	Wind Adjustment per 10 Knots	Slope Adjustment per 1%	Temperature Adjustment per 10°C	Approach Speed Adjustment	Reverse Thrust Adjustment	
	420,000 LB Landing Weight	Per 10,000 LB Above / Below 420,000 LB	Per 1,000 ft	Head / Tail Wind	Down / Up Hill	Above / Below ISA	per 5 KTS above VREF	One Reverser	No Reverser
6	5470	100 / -90	160	-240 / 780	80 / -80	150 / -150	230	0	0
5	7500	160 / -150	330	-430 / 1550	250 / -210	280 / -270	390	0	0
4	8280	160 / -150	330	-440 / 1600	330 / -270	280 / -270	390	0	0
3	9010	170 / -160	340	-470 / 1670	430 / -340	290 / -280	390	0	0
2	11740	270 / -260	540	-750 / 2780	910 / -650	460 / -440	530	0	0

Table 4:

787-9 / GENx									
Landing Distances and Adjustments (Feet)									
Runway Condition Code	Reference Distance	Weight Adjustment	Altitude Adjustment	Wind Adjustment per 10 Knots	Slope Adjustment per 1%	Temperature Adjustment per 10°C	Approach Speed Adjustment	Reverse Thrust Adjustment	
	420,000 LB Landing Weight	Per 10,000 LB Above / Below 420,000 LB	Per 1,000 ft	Head / Tail Wind	Down / Up Hill	Above / Below ISA	per 5 KTS above VREF	One Reverser	No Reverser
6	5500	100 / -90	170	-240 / 790	90 / -80	150 / -150	230	0	0
5	7580	160 / -150	340	-430 / 1580	250 / -210	280 / -280	390	0	0
4	8380	160 / -150	350	-450 / 1630	340 / -280	280 / -280	390	0	0
3	9130	170 / -150	360	-480 / 1700	450 / -350	290 / -280	390	0	0
2	11960	270 / -260	590	-770 / 2860	940 / -670	460 / -460	530	0	0

Table 5:

787-8 / TRENT 1000									
Landing Distances and Adjustments (Feet)									
Runway Condition Code	Reference Distance	Weight Adjustment	Altitude Adjustment	Wind Adjustment per 10 Knots	Slope Adjustment per 1%	Temperature Adjustment per 10°C	Approach Speed Adjustment	Reverse Thrust Adjustment	
	380,000 LB Landing Weight	Per 10,000 LB Above / Below 380,000 LB	Per 1,000 ft	Head / Tail Wind	Down / Up Hill	Above / Below ISA	per 5 KTS above VREF	One Reverser	No Reverser
6	5050	110 / -80	150	-230 / 750	80 / -70	130 / -130	220	0	0
5	6990	180 / -140	310	-410 / 1510	230 / -190	260 / -250	370	0	0
4	7410	140 / -130	250	-370 / 1270	280 / -230	210 / -210	310	0	0
3	8370	170 / -150	290	-440 / 1500	410 / -320	250 / -250	340	0	0
2	10800	290 / -240	520	-720 / 2680	820 / -590	430 / -420	510	0	0

Table 6:

787-8 / GENx									
Landing Distances and Adjustments (Feet)									
Runway Condition Code	Reference Distance	Weight Adjustment	Altitude Adjustment	Wind Adjustment per 10 Knots	Slope Adjustment per 1%	Temperature Adjustment per 10°C	Approach Speed Adjustment	Reverse Thrust Adjustment	
	380,000 LB Landing Weight	Per 10,000 LB Above / Below 380,000 LB	Per 1,000 ft	Head / Tail Wind	Down / Up Hill	Above / Below ISA	per 5 KTS above VREF	One Reverser	No Reverser
6	5100	110 / -80	160	-230 / 760	80 / -70	130 / -140	220	0	0
5	7100	180 / -140	330	-420 / 1550	240 / -200	260 / -250	380	0	0
4	7530	140 / -120	260	-380 / 1290	290 / -240	210 / -220	310	0	0
3	8530	160 / -140	300	-450 / 1530	430 / -330	250 / -250	340	0	0
2	11090	290 / -240	560	-740 / 2790	880 / -620	430 / -430	510	0	0

Reference distance is based on Max Manual Braking, sea level, standard day, no wind or slope, and no reverse thrust.

Reference distance includes a distance from threshold to touchdown associated with flare time of 7 seconds.

Distances are based on HYD PRESS L+R failure distances which conservatively approximate the effects of 5G interference.

Actual (unfactored) distances are shown.

Note: per procedure, Max Manual Braking is not required for normal operations and is to be used only in the event that significant 5G interference effects occur.

- En route:

- Plan to use Flaps 30 and V_{REF30} (with appropriate wind additives) for landing.
- For runway condition codes 6 to 2, compute time of arrival (en route) landing distance using Table 1 through 6, as applicable, applying all adjustments. Multiply the resulting unfactored landing distance by 1.15 to obtain the minimum required landing distance at the destination. This approximates a minimum required landing distance resulting from 5G C-Band interference.
- Determine desired AUTOBRAKE setting by using the normal configuration landing distance information from an approved source. Maximum manual braking may not be required.
- During approach and landing:
 - Monitor radio altimeter for anomalies.
 - Normal use of autothrottles is allowed. Monitor performance of autopilot and autothrottle. If the autopilot or autothrottle is not performing as expected, disconnect both the autopilot and autothrottle and apply manual inputs to ensure proper control of flight path.
 - If the autothrottle does not reduce the thrust to IDLE at 25 feet, manually reduce the thrust to idle, hold the thrust levers in the idle position and disconnect the autothrottle to prevent autothrottle from advancing the thrust levers after touchdown.
Caution: If the autothrottle advances the thrust levers after landing, the speedbrakes will stow and the autobrake will disarm. It will not be possible to raise the reverse thrust levers to deploy the thrust reversers until the thrust levers are at idle.
 - Manual deployment of the speedbrakes may be required.
 - If the thrust reversers do not deploy, immediately ensure the speedbrakes are extended, apply manual braking and modulate as required for the existing runway conditions.
Note: In some conditions, maximum manual braking may be required throughout the entire landing roll.

(i) Terminating Action for AFM Revision

(1) Modifying the airplane from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane terminates the limitations in paragraph (h)(1) of this AD and the operating procedures in paragraph (h)(2) of this AD for that airplane.

(2) After modifying the airplane to a radio altimeter tolerant airplane, the limitations in paragraph (h)(1) of this AD and the operating procedures in paragraph (h)(2) of this AD may be removed from the AFM.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR-520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of AIR-520, Continued

Operational Safety Branch, send it to the attention of the person identified in paragraph (k) of this AD and email to: AMOC@faa.gov.

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

(3) The following AMOCs approved previously for AD 2023-12-10, Amendment 39-22463 (88 FR 40065, June 21, 2023) are approved as AMOCs for paragraph (g)(1) of this AD: FAA AMOC letters 720-23-00137 and 720-23-00169.

(k) Additional Information

For more information about this AD, contact Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817-222-5390; email: operationalsafety@faa.gov.

(l) Material Incorporated by Reference

None.

Issued on June 25, 2026.

Brian Knaup,

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

[FR Doc. 2026-13217 Filed 6-26-26; 4:15 pm]

BILLING CODE 4910-13-C

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

[Docket No. FAA–2026–4659; Project Identifier MCAI–2025–00826–A,T; Amendment 39–23384; AD 2026–13–02]

RIN 2120–AA64

Airworthiness Directives; Transport and Commuter Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all transport and commuter category airplanes equipped with a radio (also known as radar) altimeter. This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7–3.98 GHz frequency band (5G Lower C-Band) while operating in Canadian airspace. This AD requires revising the existing airplane flight manual (AFM) to incorporate limitations prohibiting certain operations requiring radio altimeter data when operating within the Canadian airspace. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 1, 2026.

The FAA must receive comments on this AD by August 14, 2026.

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

- **Federal eRulemaking Portal:** Go to *regulations.gov*. Follow the instructions for submitting comments.

- **Fax:** 202–493–2251.

- **Mail:** U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–4659; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5390; email: *operationalsafety@faa.gov*.

SUPPLEMENTARY INFORMATION:**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include “Docket No. FAA–2026–4659; Project Identifier MCAI–2025–00826–A,T” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5390; email: *operationalsafety@faa.gov*. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2021–23–12, Amendment 39–21810 (86 FR 69984, December 9, 2021) (AD 2021–23–12), for all transport and commuter category airplanes equipped with a radio altimeter. AD 2021–23–12 was prompted by a determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 5G Lower C-Band, which is close to the frequency bands used by radio altimeters (4.2–4.4 GHz). AD 2021–23–12 required revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations requiring radio altimeter data when in the presence of 5G Lower C-Band interference as identified by Notices to Air Missions (NOTAMs). The agency issued AD 2021–23–12 because radio altimeter anomalies that are undetected by the automation or pilot, particularly close to the ground (e.g., landing flare), could lead to loss of continued safe flight and landing.

After the FAA issued AD 2021–23–12, the agency determined that additional limitations were needed due to the continued deployment of new 5G Lower C-Band base stations whose signals were expected to cover most of the contiguous U.S. at transmission frequencies between 3.7–3.98 GHz. Additionally, the FAA found that radio altimeter anomalies could lead to increased flightcrew workload and flightcrew desensitization to warnings. Therefore, the FAA issued AD 2023–10–02, Amendment 39–22438 (88 FR 34065, May 26, 2023) (AD 2023–10–02), to supersede AD 2021–23–12. For non-radio altimeter tolerant airplanes, AD 2023–10–02 maintains the AFM limitations imposed by AD 2021–23–12 in areas identified by NOTAM until June 30, 2023. After June 30, 2023, for non-radio altimeter tolerant airplanes, AD 2023–10–02 requires revising the AFM to incorporate the same limitations but in the entire contiguous U.S. airspace instead of only in areas identified by NOTAM. AD 2023–10–02 also requires modifying a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane in order to operate under 14 CFR part 121 in the contiguous U.S. as of February 1, 2024.

Actions Since AD 2023–10–02 Was Issued

Since the FAA issued AD 2023–10–02, Transport Canada, which is the aviation authority for Canada, issued AD CF–2024–14, dated May 15, 2024 (the MCAI), to correct an unsafe

condition for all transport and commuter category airplanes with a radio altimeter. The MCAI states that in July 2023, Innovation, Science and Economic Development Canada (ISED), Canada's spectrum regulator, published Standard Radio System Plans (SRSP)-520 Issue 3¹ and Radio Standard Specifications (RSS)-192 Issue 5,² which define the spectrum environment for the 3.45–3.90 GHz frequency band in Canada. The MCAI further states that spectrum auctions for the 3.45–3.65 GHz and the 3.65–3.9 GHz band were completed in 2021 and 2023, respectively.

In July 2023, ISED implemented measures to mitigate Lower C-band interference to radio altimeters, which provide the Canadian airspace greater protection from 5G Lower C-band interference to radio altimeters as compared to the Lower C-band environment in the contiguous U.S. airspace. These measures include exclusion and protection zones and airport effective isotropic radiated power (EIRP) elevation mask (a restriction that requires nearby cell tower signals to be angled downward so they do not interfere with aircraft altimeters) at certain airport runways covering the majority of air traffic in Canada, as well as nationwide reduced fundamental power emissions based on the degree of antenna uptilt above the horizon to minimize emissions from 5G base stations toward aircraft.

In late March 2026, Transport Canada notified the FAA that, beginning July 1, 2026, changes in the 5G Lower C-band protection mitigations established by ISED in 2023 would result in a more severe 5G interference environment in the Canadian airspace. Exclusion and protection zones at airports will no longer exist and updates to the airport EIRP elevation mask, nationwide tilt restriction, emitter height limitation and reduced spurious emissions will only protect airplanes that are radio altimeter tolerant. The change in mitigations will result in an unsafe condition in the Canadian 5G interference environment.

Transport Canada determined that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the

3.45–3.98 GHz frequency band. Transport Canada based its determination on the same unsafe condition found by the FAA in AD 2023–10–02. As a result, the MCAI requires revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations requiring radio altimeter data, due to the presence of 5G Lower C-Band interference, while operating in Canadian airspace.

The MCAI does not contain the prohibition on the use of Enhanced Flight Vision System (EFVS) to touchdown under 14 CFR 91.176(a) that is in AD 2023–10–02, as those operations are not yet approved in Canada. As terminating action for the operating limitations, the MCAI provides that operators may upgrade their radio altimeters to demonstrate the tolerances for emissions as specified in the MCAI. The FAA is issuing this AD to address the unsafe condition on these products. You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA–2026–4659.

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

AD Requirements

For non-radio altimeter tolerant airplanes, this AD requires, before further flight in Canadian airspace, revising the existing AFM to incorporate limitations prohibiting the following when operating in Canadian airspace:

- Instrument Landing System (ILS) Instrument Approach Procedures (IAP) special authorization (SA) category (CAT) I, SA CAT II, CAT II, and CAT III
- Automatic Landing operations
- Manual Flight Control Guidance System operations to landing/head-up display (HUD) to touchdown operation
- Use of Enhanced Flight Vision System (EFVS) to touchdown under 14 CFR 91.176(a)

This AD also requires that airplanes operating under 14 CFR part 121 in Canadian airspace be modified from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane.

This AD provides that modifying the airplane from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane terminates the AFM operating limitations.

An airplane that is a radio altimeter tolerant airplane using a method

approved by the FAA for AD 2023–10–02 is also a radio altimeter tolerant airplane for the purposes of paragraph (g)(1) of this AD. Alternative methods of compliance (AMOC) listed in paragraph (j)(3) of this AD are approved for this AD.

Differences Between This AD and the MCAI

The AFM revision required by this AD includes a prohibition for non-radio altimeter tolerant airplanes for the use of EFVS to touchdown under 14 CFR 91.176(a), which is the same prohibition specified in AD 2023–10–02. The Transport Canada does not include this prohibition since the use of EFVS has not been approved for use in Canada. The FAA has included this prohibition because Transport Canada is in the process of approving the use of EFVS.

This AD requires airplanes operating under 14 CFR part 121 in Canadian airspace to be modified to a radio altimeter tolerant airplane, and the MCAI does not. As the FAA explained in AD 2023–10–02, this equipage requirement addresses the accumulating risk for systems that are less hazardous than low-visibility landings (for example, repeated false warnings from the collision avoidance system from erroneous radio altimeter data). The FAA determined that this accumulating risk was unacceptable for part 121 operations after February 1, 2024. The MCAI states that Transport Canada is reviewing whether to prohibit operation in Canadian airspace based on type of operation and that further Canadian AD action may follow.

The MCAI specifies the fundamental emissions are in the 3.45–3.98 GHz frequency band, while this AD specifies the 3.7–3.98 GHz frequency band. AD 2023–10–02 identified an unsafe condition from wireless broadband transmissions in the 3.7–3.98 GHz frequency band and this AD is based on that same determination. In addition, an airplane determined to be a radio altimeter tolerant airplane for purposes of AD 2023–10–02, which has demonstrated the performance tolerances for fundamental emissions within the 3.7–3.98 GHz frequency band, would also be a radio altimeter tolerant airplane for purposes of this AD. Frequencies less than 3.7 GHz are further away from the frequency bands used by radio altimeters (4.2 to 4.4 GHz), so an airplane determined to be tolerant in the range of 3.7–3.98 GHz is also tolerant to emissions less than 3.7 GHz.

¹ <https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/standard-radio-system-plans/srsp-520-technical-requirements-fixed-and-or-mobile-systems-including-flexible-use-broadband-systems>.

² <https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/radio-equipment-standards/radio-standards-specifications-rss/rss-192-flexible-use-broadband-equipment-operating-band-3450-3900-mhz>.

Interim Action

The FAA considers this AD to be an interim action. The FAA may consider further rulemaking if the Canadian 5G C-band interference environment changes or if Canada issues an operational rule to address 5G C-band interference with radio altimeters.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because radio altimeter anomalies that are undetected by the automation or

pilot, particularly close to the ground (e.g., landing flare), could lead to loss of continued safe flight and landing.

Additionally, radio altimeter anomalies could lead to increased flightcrew workload and flightcrew desensitization to warnings. The urgency is based on a change in the 5G Lower C-band environment in Canada, which is scheduled to occur on July 1, 2026.

Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA notes that since operators must comply with this AD before further flight in Canadian airspace,

airplanes that do not operate in Canada will not have to comply and therefore will have no costs under this AD.

The FAA estimates that this AD affects approximately 1,000 airplanes of U.S. registry. When the FAA issued AD 2023–10–02, it estimated that out of the approximately 8,000 transport and commuter category airplanes of U.S. registry, almost 7,000 airplanes on the U.S. registry had already equipped or retrofitted to address radio altimeter interference tolerance. While the FAA expects that many of the affected airplanes have upgraded their radio altimeters, the FAA does not have definitive data on how many airplanes have been modified to a radio altimeter tolerant airplane since July 2023, and therefore this AD retains the estimates from AD 2023–10–02.

Some operators will comply with the modification requirement by replacing the radio altimeter with a new upgraded or modified radio altimeter, and others will comply by installing an externally mounted filter. The FAA estimates that approximately 180 airplanes may modify by replacing the radio altimeters and approximately 820 airplanes may modify by adding radio altimeter filters. As such, the FAA estimates the following costs to comply with this AD, for a total U.S. fleet cost of compliance of up to \$50,382,000.

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
AFM revision (if no airplanes are modified).	1 work-hour × \$85 per hour = \$85.	\$0	\$85	\$85,000 for 1,000 affected airplanes.
Modification (radio altimeter replacement option).	.....	.....	Up to \$120,000 (includes parts and labor).	Up to \$21,600,000 for 180 affected airplanes.
Modification (filter addition option).	24 work-hours × \$85 per hour = \$2,040 per filter.	\$12,000 per filter	Up to \$14,040 (includes parts and labor).	Up to \$28,782,000 for 820 affected airplanes with 2 or 3 filters per airplane.

The benefits of this AD include the value of reducing aviation accident risks that are mitigated by Terrain Awareness and Warning System (TAWS), Traffic Collision Avoidance System (TCAS), and airborne windshear warning and flight guidance systems (windshear systems), all of which rely on proper performance of radio altimeters to perform their intended function. TAWS, TCAS, and windshear systems are examples of safety-enhancing systems required for operation under 14 CFR part 121. The FAA required these systems to address hazards that have caused accidents and fatalities during commercial air transportation. This AD will maintain the same level of safety afforded by these and other safety

systems before the use of the Lower C-Band by 5G broadband networks. This AD will also minimize erroneous system messages and the unsafe condition they produce.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA

with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–13–02 Transport and Commuter

Category Airplanes: Amendment 39–23384; Docket No. FAA–2026–4659; Project Identifier MCAI–2025–00826–A,T.

(a) Effective Date

This airworthiness directive (AD) is effective July 1, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all transport and commuter category airplanes equipped with a radio (also known as radar) altimeter. These radio altimeters are installed on various transport and commuter category airplanes including, but not limited to, the airplanes for which the design approval holder is identified in paragraphs (c)(1) through (18) of this AD.

- (1) Airbus Canada Limited Partnership
- (2) Airbus SAS
- (3) ATR–GIE Avions de Transport Régional
- (4) BAE Systems (Operations) Limited
- (5) Bombardier Inc.
- (6) Dassault Aviation
- (7) De Havilland Aircraft of Canada Limited
- (8) Embraer S.A. (including type certificates previously held by Yaborã Indústria Aeronáutica S.A., which are now held by Embraer S.A.)
- (9) Fokker Services B.V.
- (10) Gulfstream Aerospace Corporation
- (11) Gulfstream Aerospace LP
- (12) Lockheed Martin Corporation/Lockheed Martin Aeronautics Company
- (13) MHI RJ Aviation ULC
- (14) Pilatus Aircraft Limited
- (15) Saab AB, Support and Services
- (16) Textron Aviation Inc.
- (17) The Boeing Company
- (18) Viking Air Limited

(d) Subject

Air Transport Association (ATA) of America Code 31, Indicating/Recording System; 34, Navigation.

(e) Unsafe Condition

This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7–3.98 GHz frequency band (5G Lower C-Band), when operating in Canadian airspace. The FAA is issuing this AD because radio altimeter anomalies that are undetected by the automation or pilot, particularly close to the ground (e.g., landing flare), could lead to loss of continued safe flight and landing. Additionally, radio altimeter anomalies could lead to increased flightcrew workload and flightcrew desensitization to warnings.

(f) Compliance

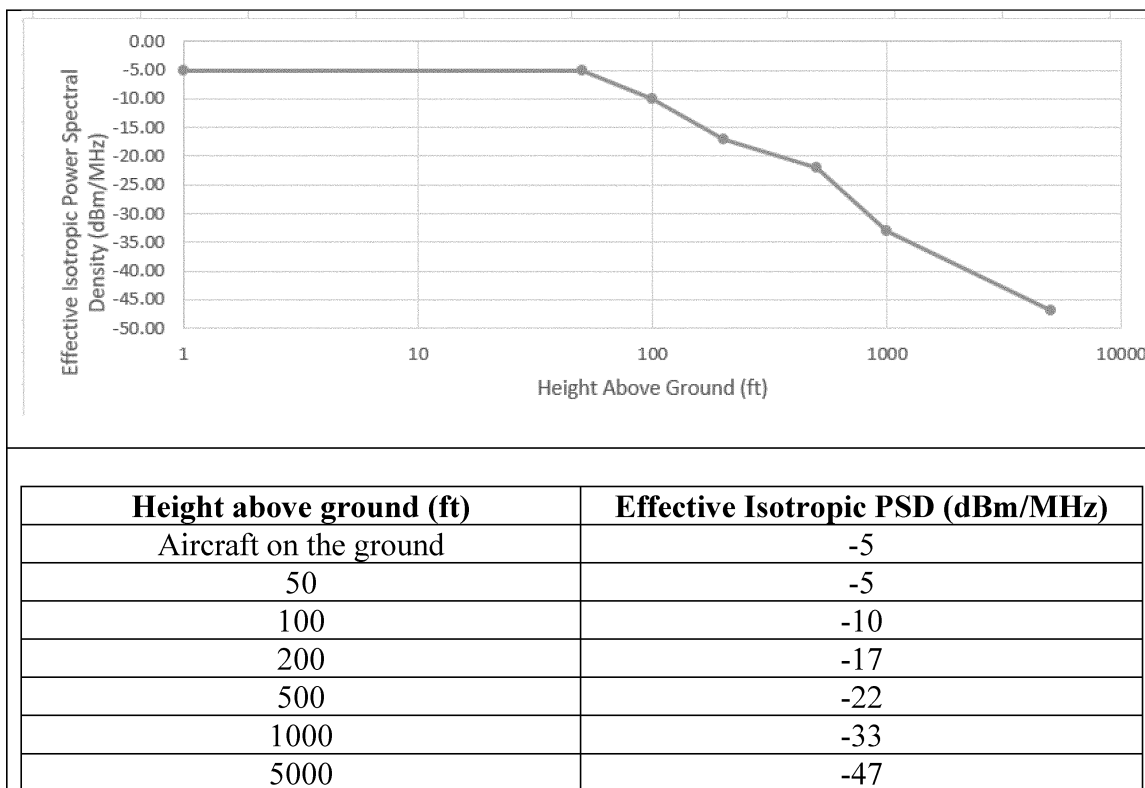
Comply with this AD within the compliance times specified, unless already done.

(g) Definitions

(1) For purposes of this AD, a “radio altimeter tolerant airplane” is one for which the radio altimeter, as installed, demonstrates the tolerances specified in paragraphs (g)(1)(i) and (ii) of this AD, using a method approved by the FAA. No actions are required by this AD for radio altimeter tolerant airplanes.

(i) Tolerance to radio altimeter interference, for the fundamental emissions (3.7–3.98 GHz), at or above the power spectral density (PSD) curve threshold specified in figure 1 to paragraph (g)(1)(i) of this AD.

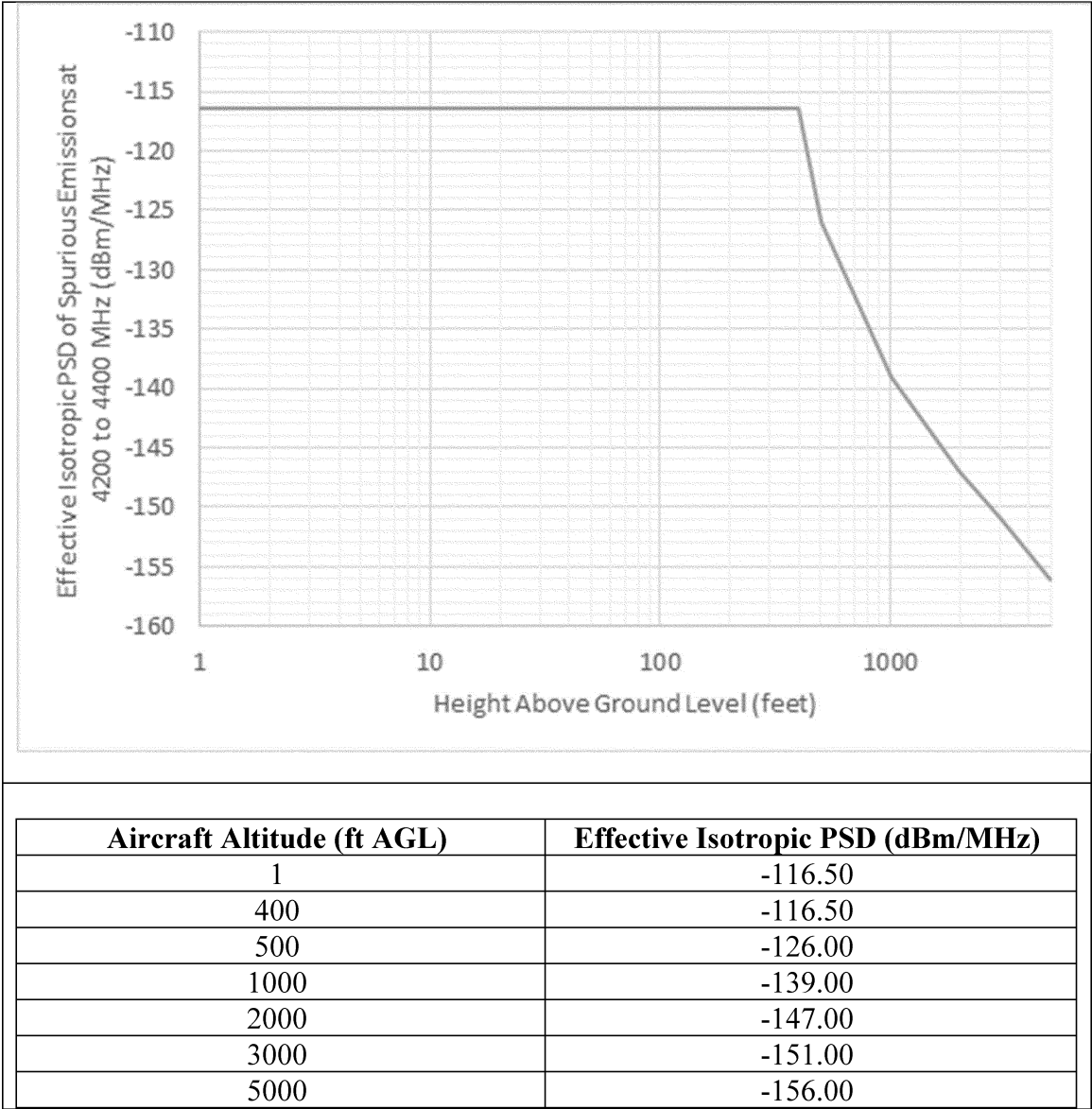
Figure 1 to paragraph (g)(1)(i) - Fundamental Effective Isotropic PSD at Outside Interface of Aircraft Antenna



(ii) Tolerance to radio altimeter interference, for the spurious emissions (4.2–4.4 GHz), at or above the PSD curve threshold

specified in figure 2 to paragraph (g)(1)(ii) of this AD.

Figure 2 to paragraph (g)(1)(ii) - Spurious Effective Isotropic PSD at Outside Interface of Aircraft Antenna



(2) For purposes of this AD, a “non-radio altimeter tolerant airplane” is one for which the radio altimeter, as installed, does not demonstrate the tolerances specified in paragraphs (g)(1)(i) and (ii) of this AD.

(h) Airplane Flight Manual (AFM) Revision
For non-radio altimeter tolerant airplanes: Before further flight in Canadian airspace, revise the Limitations Section of the existing

AFM to include the information specified in figure 3 to paragraph (h) of this AD. This may be done by inserting a copy of figure 3 to paragraph (h) of this AD into the existing AFM.

Figure 3 to paragraph (h) - AFM Revision for Non-Radio Altimeter Tolerant Airplanes in Canadian Airspace

(As Required by AD 2026-13-02)

Radio Altimeter Flight Restrictions (Canadian Airspace)

Due to the presence of 5G Lower C-Band wireless broadband interference, when operating in Canadian airspace, the following operations requiring radio altimeter are prohibited:

- Instrument Landing System (ILS) Instrument Approach Procedures (IAP), SA CAT I, SA CAT II, CAT II, and CAT III
- Automatic Landing operations
- Manual Flight Control Guidance System operations to landing/head-up display (HUD) to touchdown operation
- Use of Enhanced Flight Vision System (EFVS) to touchdown under 14 CFR 91.176(a).

This airplane must not operate under 14 CFR part 121 in Canadian airspace.

(i) Terminating Action for AFM Limitations

(1) Modifying the airplane from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane terminates the limitations in paragraph (h) of this AD for that airplane.

(2) After modifying the airplane to a radio altimeter tolerant airplane, the limitations specified by paragraph (h) of this AD may be removed from the AFM.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR-720, Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of AIR-720, Operational Safety Branch, send it to the attention of the person identified in paragraph (k) of this AD and email to: AMOC@faa.gov.

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

(3) The following AMOCs approved previously for AD 2023-10-02, Amendment 39-22438 (88 FR 34065, May 26, 2023) are approved as AMOCs for paragraph (g)(1) of this AD: FAA AMOC letters 720-23-00133, 720-23-00137, 720-23-00138, 720-23-00155, 720-23-00158, 720-23-00169, 720-23-00191, 720-23-00192, 720-24-00012, 720-25-00025, 720-25-00031, 720-26-00009, 722-23-00073, 722-23-00076, and 756-25-00100.

(k) Additional Information

For more information about this AD, contact Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA

98198; phone: 817-222-5390; email: operationalsafety@faa.gov.

(l) Material Incorporated by Reference

None.

Issued on June 23, 2026.

Christopher R. Parker,

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

[FR Doc. 2026-13162 Filed 6-26-26; 4:15 pm]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-7208; Project Identifier AD-2026-00557-T; Amendment 39-23400; AD 2026-13-17]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 737-8, 737-9, and 737-8200 airplanes. This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7-3.98 GHz frequency band (5G Lower

C-Band) while operating in Canadian airspace, and the determination that, during takeoffs and landings, as a result of this interference, certain airplane systems may not properly function, resulting in longer than normal landing or rejected takeoff distances due to the effect on thrust reverser deployment, spoilers, speedbrake deployment, and increased idle thrust, regardless of the approach type or weather, which could lead to degraded deceleration performance and a runway excursion. This AD requires revising the existing airplane flight manual (AFM) to incorporate limitations prohibiting certain operations requiring radio altimeter data when operating in Canadian airspace. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 1, 2026.

The FAA must receive comments on this AD by August 14, 2026.

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

- **Federal eRulemaking Portal:** Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- **Fax:** 202-493-2251.

- **Mail:** U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2026–7208; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5390; email: *operationalsafety@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include Docket No. FAA–2026–7208 and Project Identifier AD–2026–00557–T at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Ken Fairhurst, Continued Operational Safety Technical

Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5390; email: *operationalsafety@faa.gov*. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2021–23–12, Amendment 39–21810 (86 FR 69984, December 9, 2021) (AD 2021–23–12), for all transport and commuter category airplanes equipped with a radio altimeter. AD 2021–23–12 was prompted by a determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 5G Lower C-Band, which is close to the frequency bands used by radio altimeters (4.2–4.4 GHz). AD 2021–23–12 required revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations requiring radio altimeter data when in the presence of 5G Lower C-Band interference as identified by Notices to Air Missions (NOTAMs). The agency issued AD 2021–23–12 because radio altimeter anomalies that are undetected by the automation or pilot, particularly close to the ground (e.g., landing flare), could lead to loss of continued safe flight and landing.

The FAA subsequently identified an additional hazard presented by 5G Lower C-Band interference on Boeing Model 737–8, 737–9, and 737–8200 airplanes and issued AD 2022–03–20, Amendment 39–21937 (87 FR 4787, January 31, 2022) (AD 2022–03–20). AD 2022–03–20 was prompted by the unsafe condition in AD 2021–23–12, as well as a determination that, during takeoffs and landings, as a result of interference from the 5G Lower C-Band, certain airplane systems may not properly function, resulting in longer than normal landing or rejected takeoff distances due to the effect on thrust reverser deployment, spoilers, speedbrake deployment, and increased idle thrust, regardless of the approach type or weather, which could lead to degraded deceleration performance and a runway excursion. AD 2022–03–20 required revising the limitations section of the existing AFM to incorporate limitations prohibiting the use of certain minimum equipment list (MEL) items when in the presence of 5G Lower C-Band interference as identified by NOTAMs.

After the FAA issued AD 2021–23–12 and AD 2022–03–20, the agency determined that additional limitations were needed due to the continued

deployment of new 5G Lower C-Band base stations whose signals were expected to cover most of the contiguous U.S., as well as the determination that radio altimeter anomalies could lead to increased flightcrew workload and flightcrew desensitization to warnings. Therefore, the FAA issued AD 2023–10–02, Amendment 39–22438 (88 FR 34065, May 26, 2023) (AD 2023–10–02), to supersede AD 2021–23–12, and the FAA issued AD 2023–12–11, Amendment 39–22469 (88 FR 40011, June 21, 2023) (AD 2023–12–11), to supersede AD 2022–03–20.

Currently, AD 2023–12–11 requires revising the limitations section of the existing AFM to incorporate limitations prohibiting the use of certain MEL items in the entire contiguous U.S. airspace instead of only in areas identified by NOTAM; however, AD 2023–12–11 permits radio altimeter tolerant airplanes to perform these operations at 5G Lower C-Band mitigated airports as identified in an FAA Domestic Notice.

Actions Since AD 2023–12–11 Was Issued

Since the FAA issued AD 2023–12–11, Transport Canada, which is the aviation authority for Canada, issued AD CF–2024–14, dated May 15, 2024 (Transport Canada AD CF–2024–14), to correct an unsafe condition for all transport and commuter category airplanes with a radio altimeter. Transport Canada AD CF–2024–14 states that in July 2023, Innovation, Science and Economic Development Canada (ISED), Canada’s spectrum regulator, published Standard Radio System Plans (SRSP)–520 Issue 3¹ and Radio Standard Specifications (RSS)–192 Issue 5,² which define the spectrum environment for the 3.45–3.90 GHz frequency band in Canada. Transport Canada AD CF–2024–14 further states that spectrum auctions for the 3.45–3.65 GHz and the 3.65–3.9 GHz band were completed in 2021 and 2023, respectively.

In July 2023, ISED implemented measures to mitigate Lower C-Band interference to radio altimeters, which provide the Canadian airspace greater protection from 5G Lower C-Band interference to radio altimeters as

¹ <https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/standard-radio-system-plans/srsp-520-technical-requirements-fixed-and-or-mobile-systems-including-flexible-use-broadband-systems>.

² <https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/radio-equipment-standards/radio-standards-specifications-rss/rss-192-flexible-use-broadband-equipment-operating-band-3450-3900-mhz>.

compared to the Lower C-Band environment in the contiguous U.S. airspace. These measures include exclusion and protection zones and airport effective isotropic radiated power (EIRP) elevation mask (a restriction that requires nearby cell tower signals to be angled downward so they do not interfere with aircraft altimeters) at certain airport runways covering the majority of air traffic in Canada, as well as nationwide reduced fundamental power emissions based on the degree of antenna uptilt above the horizon to minimize emissions from 5G base stations toward aircraft.

In late March 2026, Transport Canada notified the FAA that, beginning July 1, 2026, changes in the 5G Lower C-Band protection mitigations established by ISED in 2023 would result in a more severe 5G interference environment in the Canadian airspace. Exclusion and protection zones at airports will no longer exist and updates to the airport EIRP elevation mask, nationwide tilt restriction, emitter height limitation and reduced spurious emissions will only protect airplanes that are radio altimeter tolerant. The change in mitigations will result in an unsafe condition in the Canadian 5G interference environment.

Transport Canada determined that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.45–3.98 GHz frequency band. Transport Canada based its determination on the same unsafe condition found by the FAA in AD 2023–10–02. As a result, Transport Canada AD CF–2024–14 requires revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations requiring radio altimeter data, due to the presence of 5G Lower C-Band interference, while operating in Canadian airspace. As terminating action for the operating limitations, Transport Canada AD CF–2024–14 provides that operators may upgrade their radio altimeters to demonstrate the tolerances for emissions as specified in Transport Canada AD CF–2024–14.

Boeing subsequently conducted an analysis of the expected changes in the 5G Lower C-Band environment in Canada and the effects of interference with radio altimeters with respect to the Boeing fleet. In May 2026, Boeing reported that certain airplane configurations will not demonstrate tolerance to radio altimeter interference in the new 5G environment in Canada. Therefore, based on this information, the FAA determined that the unsafe condition identified in AD 2023–12–11

exists for Model 737–8, 737–9, and 737–8200 airplanes when operating in the Canadian airspace. As a result, operating limitations similar to the limitations required by AD 2023–12–11 are necessary.

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

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

For non-radio altimeter tolerant airplanes, this AD requires, before further flight in Canadian airspace, revising the existing AFM to incorporate limitations prohibiting the use of certain MEL items when operating in Canadian airspace. This AD provides that modifying the airplane from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane terminates the AFM operating limitations for that airplane.

While AD 2023–12–11 also specifies limitations for dispatch or release to airports and approach, landing, and go-around on runways for radio altimeter tolerant airplanes except at 5G Lower C-Band mitigated airports, this AD has no limitations for radio altimeter tolerant airplanes. The interference environment at Canadian airports after July 1, 2026, will be mitigated enough such that those limitations are not necessary for radio altimeter tolerant airplanes. The FAA also notes that most 737–8, 737–9, and 737–8200 radio altimeter tolerant airplanes are not subject to the limitations in AD 2023–12–11 under the provisions of an FAA-approved AMOC.

An airplane that is a radio altimeter tolerant airplane using a method approved by the FAA for AD 2023–12–11 is also a radio altimeter tolerant airplane for the purposes of paragraph (g)(1) of this AD. Alternative methods of compliance (AMOC) listed in paragraph (j)(3) of this AD are approved for this AD.

Differences From Transport Canada AD CF–2024–14

Transport Canada AD CF–2024–14 specifies the fundamental emissions are in the 3.45–3.98 GHz frequency band, while this AD specifies the 3.7–3.98 GHz frequency band. AD 2023–10–02 and AD 2023–12–11 identified an unsafe condition from wireless broadband transmissions in the 3.7–3.98 GHz frequency band, and this AD is based on that same determination. In addition, an airplane determined to be

a radio altimeter tolerant airplane for the purposes of AD 2023–12–11, which has demonstrated the performance tolerances for fundamental emissions within the 3.7–3.98 GHz frequency band, would also be a radio altimeter tolerant airplane for purposes of this AD. Frequencies less than 3.7 GHz are further away from the frequency bands used by radio altimeters (4.2–4.4 GHz), so an airplane determined to be tolerant in the range of 3.7–3.98 GHz is also tolerant to emissions less than 3.7 GHz.

Interim Action

The FAA considers this AD to be an interim action. The FAA may consider further rulemaking if the Canadian 5G C-Band interference environment changes or if Canada issues an operational rule to address 5G C-Band interference with radio altimeters.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 5G C-Band. This interference can cause other airplane systems to not properly function, resulting in longer than normal landing or rejected takeoff distances due to the effect on thrust reverser deployment, spoilers, speedbrake deployment, and increased idle thrust, regardless of the approach type or weather, which could lead to degraded deceleration performance and a runway excursion. The urgency is based on a change in the 5G Lower C-band environment in Canada, which is scheduled to occur on July 1, 2026. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without

prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA notes that since operators must comply with this AD before further flight in Canadian airspace, airplanes that do not operate in Canada

will not have to comply and therefore will have no costs under this AD.
The FAA estimates that this AD affects 832 airplanes of U.S. registry. The FAA expects that many of the affected airplanes have upgraded radio altimeters; therefore, the FAA estimates the total number of airplanes affected by this AD to be less than the total fleet size provided in this AD. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
AFM revision for non-RAT airplanes	1 work-hour × \$85 per hour = \$85	\$0	\$85	Up to \$70,720.

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Action	Labor cost	Parts cost	Cost per product
Modification (radio altimeter replacement option).	.....	.....	Up to \$120,000 (includes parts and labor).
Modification (filter addition option)	24 work-hours × \$85 per hour = \$2,040 per filter.	\$12,000 per filter	Up to \$14,040 (includes parts and labor).

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–13–17 The Boeing Company: Amendment 39–23400; Docket No. FAA–2026–7208; Project Identifier AD–2026–00557–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 1, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 737–8, 737–9, and 737–8200 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7–3.98 GHz frequency band (5G Lower C-Band) when operating in Canadian airspace, and the determination that, during takeoffs and landings, as a result of this interference, certain airplane systems may not properly function, resulting in longer than normal landing or rejected takeoff distances due to the effect on thrust reverser deployment, spoilers, speedbrake deployment, and increased idle thrust, regardless of the approach type or weather. The FAA is issuing this AD to address degraded deceleration performance, which could lead to a runway excursion.

(f) Compliance

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

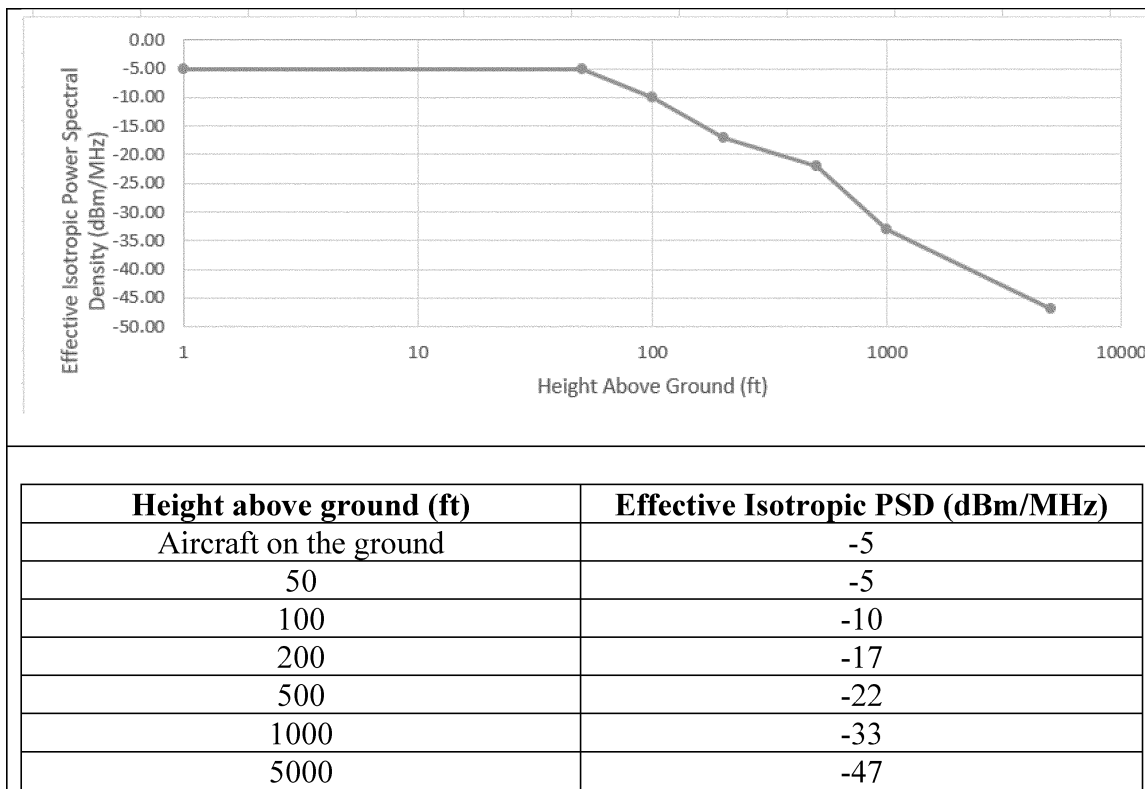
(g) Definitions

(1) For purposes of this AD, a “radio altimeter tolerant airplane” is one for which the radio altimeter, as installed, demonstrates the tolerances specified in paragraphs (g)(1)(i) and (ii) of this AD, using a method approved by the FAA. No actions are required by this AD for radio altimeter tolerant airplanes.

(i) Tolerance to radio altimeter interference, for the fundamental emissions (3.7–3.98 GHz), at or above the power

spectral density (PSD) curve threshold specified in figure 1 to paragraph (g)(1)(i) of this AD.

Figure 1 to Paragraph (g)(1)(i)—Fundamental Effective Isotropic PSD at Outside Interface of Aircraft Antenna

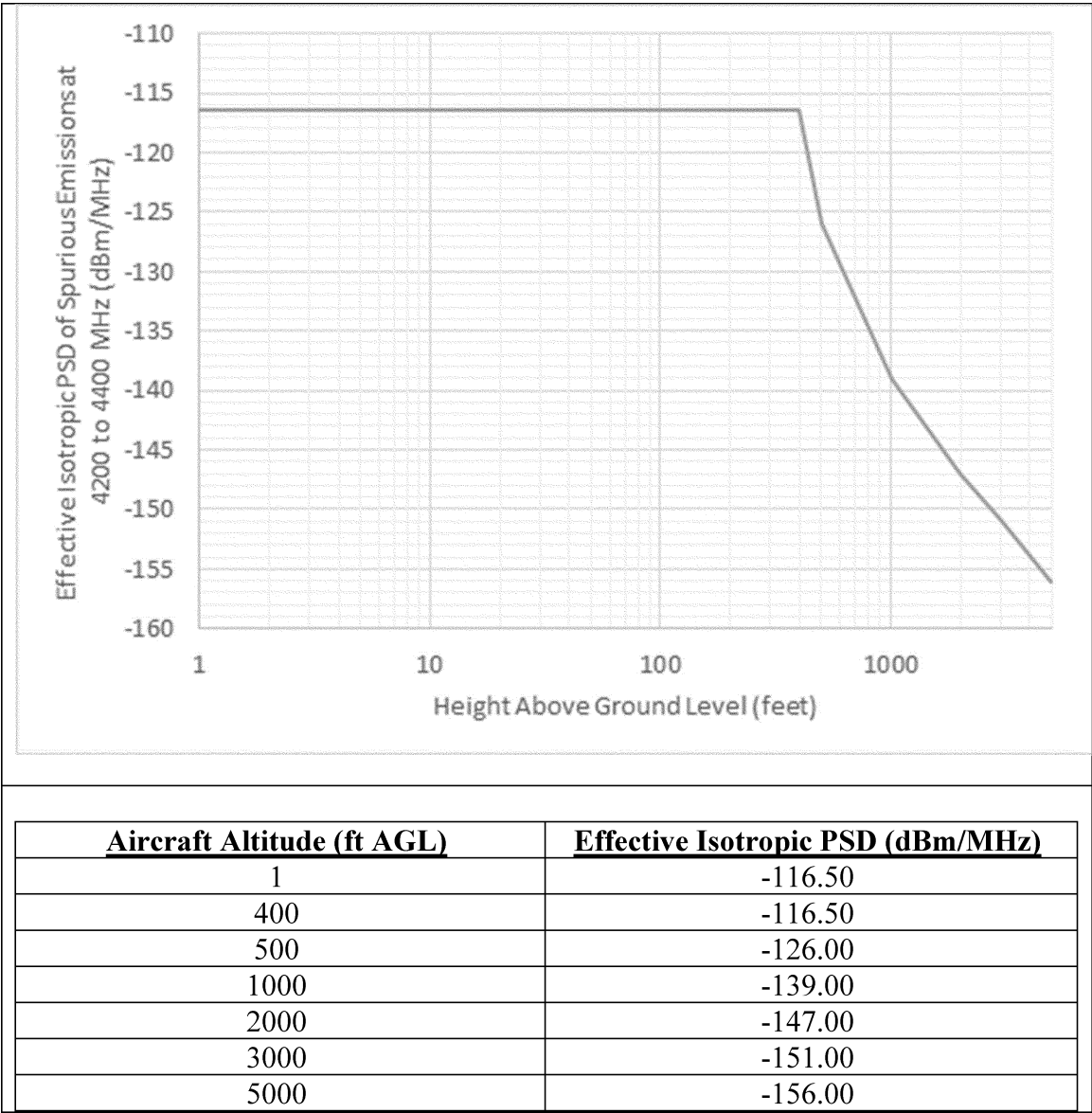


(ii) Tolerance to radio altimeter interference, for the spurious emissions (4.2–4.4 GHz), at or above the PSD curve threshold

specified in figure 2 to paragraph (g)(1)(ii) of this AD.

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Figure 2 to Paragraph (g)(1)(ii)—Spurious Effective Isotropic PSD at Outside Interface of Aircraft Antenna



(2) For purposes of this AD, a “non-radio altimeter tolerant airplane” is one for which the radio altimeter, as installed, does not

demonstrate the tolerances specified in paragraphs (g)(1)(i) and (ii) of this AD.
(3) Runway condition codes are defined in figure 3 to paragraph (g)(3) of this AD.

Figure 3 to Paragraph (g)(3)—Runway Condition Codes

Runway Condition Code	Runway Condition Description	Reported Braking Action
6	Dry	Dry
5	Wet (smooth, grooved, or porous friction course (PFC)) or frost 3 mm (0.12 inch) or less of: water, slush, dry snow, or wet snow	Good
4	Compacted snow at or below -15°C (5°F) outside air temperature (OAT)	Good to medium
3	Wet (slippery), dry snow, or wet snow (any depth) over compacted snow Greater than 3 mm (0.12 inch) of: dry snow or wet snow Compacted snow at OAT warmer than -15°C (5°F)	Medium
2	Greater than 3 mm (0.12 inch) of: water or slush	Medium to poor
1	Ice	Poor
0	Wet ice, water on top of compacted snow, dry snow, or wet snow over ice	Nil

(h) Airplane Flight Manual (AFM) Revision

For non-radio altimeter tolerant airplanes: Before further flight in Canadian airspace, do the actions specified in paragraphs (h)(1) and (2) of this AD.

(1) Revise the Limitations Section of the existing AFM to include the information specified in figure 4 to paragraph (h)(1) of this AD. This may be done by inserting a copy of figure 4 to paragraph (h)(1) of this AD into the existing AFM.

Figure 4 to Paragraph (h)(1)—AFM Limitations Revision for Non-Radio Altimeter Tolerant Airplanes in Canadian Airspace

(As required by AD 2026-13-17)

Radio Altimeter 5G Lower C-Band Interference, Takeoff and Landing Performance (Canadian Airspace)

Due to the presence of 5G Lower C-Band wireless broadband interference, the following limitations are required for dispatch or release to airports, and takeoff or landing on runways, in Canadian airspace.

Minimum Equipment List (MEL)

Dispatch or release with any of the following MEL items is prohibited:

- 32-42-01 – Antiskid Systems
- 32-42-02 – Alternate Antiskid Valves
- 32-42-03 – Automatic Brake System
- 32-44-01 – Parking Brake Valve

Landing Operations on Runways with Condition Code 1 or 0

Dispatch or release to, or takeoff or landing on, runways with a runway condition code of 1 or 0 is prohibited.

Takeoff and Landing Performance

Operators must use the 5G C-Band Interference Takeoff Performance and Landing Distance Calculations procedure contained in the Operating Procedures Section of this AFM.

(2) Revise the Operating Procedures Section of the existing AFM to include the information specified in figure 5 to paragraph (h)(2) of this AD. This may be done by inserting a copy of figure 5 to paragraph

(h)(2) of this AD into the existing AFM. An AFM with an Operating Procedures Section that complies with paragraph (h)(2) of AD 2023-12-11, Amendment 39-22469 (88 FR 40011, June 21, 2023) is acceptable for

compliance with the requirements of this paragraph of this AD.

Figure 5 to Paragraph (h)(2)—AFM Operating Procedures Revision

(As required by AD 2026-13-17)

5G C-Band Interference Takeoff Performance and Landing Distance Calculations Dispatch Guidance – Takeoff Performance

Stopping distance during a rejected takeoff (RTO) can be significantly increased due to the following potential effects on airplane systems:

- Limited spoiler extension
- Higher engine idle
- Thrust reversers may not deploy

For the increased stopping distance during an RTO, refer to the Departure Airport, Takeoff Performance section below.

Dispatch Guidance – Destination or Alternate Airport – Landing Performance

Calculate the required landing distance (select Method A or Method B).

Method A: Use of normal landing performance increased by a predetermined percentage

Use Prior to Descent, Required Landing Distance section below.

Method B: Use of the Non-Normal Configuration Landing Distance table for SPOILERS

Use the SPOILERS Non-Normal Configuration Landing Distance table in the Performance chapter of the AFM, or the applicable table below, for flaps 30 or flaps 40.

- Use the distance for MAX MANUAL braking configurations with the appropriate runway condition at estimated time of arrival.
- Apply all of the appropriate distance adjustments to include the reverse thrust adjustment for no reverse (NO REV).

For runway condition codes 6 and 5, obtain the required landing distance by using the higher of:

- The resulting unfactored distance increased by 15%, or
- The normal dispatch calculations.

For runway condition codes 4 and 3, increase the resulting unfactored distance by 15% to obtain the required landing distance.

For runway condition code 2, increase the resulting unfactored distance by 30% to obtain the required landing distance.

End of Method B

Departure Airport, Takeoff Performance

Select Method 1 or 2 to adjust the accelerate stop distance available (ASDA).

Note: Both methods provide an acceptable margin of safety.

Method 1: Adjust the ASDA by a predetermined value.

Adjust the ASDA by using the following adjustment:

Runway Condition Code	Runway Condition Description	Subtract from ASDA
6	Dry	950 feet
5	Wet skid resistant*	2,600 feet
5, 4, or 3	Wet/dry snow/wet snow/compact snow/slippy	3,700 feet
2	Slush or standing water	4,900 feet

*Provided approval to use wet skid resistant data has been received from the appropriate regulatory authority in accordance with the AFM.

Use the adjusted ASDA and complete the takeoff performance calculations using actual departure runway conditions and actual departure environmental conditions. Do not take credit for use of reverse thrust when calculating takeoff performance.

End of Method 1

Method 2: Adjust the ASDA by a predetermined factor.

Multiply the ASDA by the following factor:

Runway Condition Code	Runway Condition Description	ASDA Factor
6	Dry	0.86
5	Wet skid resistant*	0.76
5, 4, or 3	Wet/dry snow/wet snow/compact snow/slippy	0.71
2	Slush or standing water	0.65

*Provided approval to use wet skid resistant data has been received from the appropriate regulatory authority in accordance with the AFM.

Use the adjusted ASDA and complete the takeoff performance calculations using actual departure runway conditions and actual departure environmental conditions. Do not take credit for use of reverse thrust when calculating takeoff performance.

End of Method 2

Prior to takeoff:

Verify normal radio altimeter indications.

Climb out:

- TO/GA mode may not be available
- Monitor pitch mode engagement
- Monitor roll mode engagement
- Autopilot may not engage

Prior to Descent, Required Landing Distance

Do a time of arrival (en route) landing distance assessment using Method A or B. Use the SPOILERS Non-Normal Configuration Landing Distance table in the Performance chapter of the AFM, or the applicable table below, for flaps 30 or flaps 40.

Method A: Use of normal landing performance and increase by a predetermined percentage.

Use the Normal Configuration Landing Distance table for flaps 30 or flaps 40.

Note: The distances and adjustments shown in the Normal Configuration Landing Distance tables are factored and have been increased 15%.

Select the appropriate runway condition.

Select the distance for the MAX MANUAL braking configuration.

Apply all of the appropriate distance adjustments.

Note: Do not apply adjustments for reverse thrust.

To obtain the required landing distance, increase the resulting factored distance by the percentage below in Table 1 based on the runway condition code or runway braking action.

Table 1

Runway Condition Code	Reported Braking Action	Percentage
6	Dry	23%
5	Good	63%
4	Good to medium	56%
3	Medium	65%
2	Medium to poor	113%

Determine autobrake settings using the Determine Autobrake Settings section below.

End of Method A**Method B: Use of the Non-Normal Configuration Landing Distance table for SPOILERS**

Use the SPOILERS Non-Normal Configuration Landing Distance table in the Performance chapter of the AFM, or the applicable table below, for flaps 30 or flaps 40.

Select the appropriate runway condition.

Select the distance for MAX MANUAL braking configuration.

Apply all of the appropriate distance adjustments including the reverse thrust adjustment for no reverse (NO REV).

For runway condition codes 6 to 3, increase the resulting unfactored distance by 15% to obtain the required landing distance.

For runway condition code 2, increase the resulting unfactored distance by 30% to obtain the required landing distance.

Determine autobrake settings using the Determine Autobrake Settings section below.

SPOILERS Non-Normal Configuration Landing Distance Tables

737-8 and 737-8200 One Position Tailskid, FLAPS 30, VREF30

Landing Distances and Adjustments (Feet)									
Runway Condition Code	Reference Distance	Weight Adjustment	Altitude Adjustment*	Wind Adjustment per 10 Knots	Slope Adjustment per 1%	Temperature Adjustment per 10°C	Approach Speed Adjustment	Reverse Thrust Adjustment	
	150,000 LB Landing Weight	Per 10,000 LB Above / Below 150,000 LB	Per 1,000 ft STD / HIGH	Head / Tail Wind	Down / Up Hill	Above / Below ISA	per 5 KTS above VREF	One Reverser	No Reverser
6	4870	250 / -270	130 / 170	-210 / 680	80 / -70	130 / -130	310	180	280
5	6300	420 / -410	230 / 320	-330 / 1160	200 / -170	210 / -210	420	610	1300
4	6890	430 / -430	240 / 330	-350 / 1210	260 / -210	210 / -210	420	740	1620
3	7330	450 / -450	250 / 340	-360 / 1270	310 / -250	220 / -220	420	910	2090
2	8290	610 / -570	330 / 460	-470 / 1660	440 / -340	280 / -280	450	1530	4410

737-8 and 737-8200 Two Position Tailskid, FLAPS 30, VREF30

Landing Distances and Adjustments (Feet)									
Runway Condition Code	Reference Distance	Weight Adjustment	Altitude Adjustment*	Wind Adjustment per 10 Knots	Slope Adjustment per 1%	Temperature Adjustment per 10°C	Approach Speed Adjustment	Reverse Thrust Adjustment	
	150,000 LB Landing Weight	Per 10,000 LB Above / Below 150,000 LB	Per 1,000 ft STD / HIGH	Head / Tail Wind	Down / Up Hill	Above / Below ISA	per 5 KTS above VREF	One Reverser	No Reverser
6	4670	250 / -250	130 / 170	-210 / 670	80 / -70	120 / -120	300	160	250
5	6030	410 / -380	220 / 320	-320 / 1130	190 / -160	200 / -200	410	550	1170
4	6610	420 / -400	230 / 330	-340 / 1180	240 / -200	200 / -200	410	680	1480
3	7050	430 / -420	240 / 340	-360 / 1240	300 / -240	210 / -200	410	850	1960
2	7980	590 / -540	330 / 460	-460 / 1640	420 / -330	270 / -270	450	1430	4110

737-9 FLAPS 30, VREF30

Landing Distances and Adjustments (Feet)									
Runway Condition Code	Reference Distance	Weight Adjustment	Altitude Adjustment*	Wind Adjustment per 10 Knots	Slope Adjustment per 1%	Temperature Adjustment per 10°C	Approach Speed Adjustment	Reverse Thrust Adjustment	
	180,000 LB Landing Weight	Per 10,000 LB Above / Below 180,000 LB	Per 1,000 ft STD / HIGH	Head / Tail Wind	Down / Up Hill	Above / Below ISA	per 5 KTS above VREF	One Reverser	No Reverser
6	5030	250 / -250	140 / 170	-210 / 690	90 / -80	130 / -130	310	170	270
5	6530	410 / -380	250 / 330	-340 / 1180	220 / -180	210 / -210	420	610	1290
4	7090	420 / -400	260 / 340	-350 / 1230	270 / -220	220 / -220	420	720	1560
3	7550	430 / -420	270 / 350	-370 / 1290	330 / -260	220 / -220	420	890	1990
2	8530	590 / -530	360 / 480	-480 / 1690	460 / -360	290 / -290	460	1480	4070

737-8 and 737-8200 One Position Tailskid, FLAPS 40, VREF40

Landing Distances and Adjustments (Feet)									
Runway Condition Code	Reference Distance	Weight Adjustment	Altitude Adjustment*	Wind Adjustment per 10 Knots	Slope Adjustment per 1%	Temperature Adjustment per 10°C	Approach Speed Adjustment	Reverse Thrust Adjustment	
	150,000 LB Landing Weight	Per 10,000 LB Above / Below 150,000 LB	Per 1,000 ft STD / HIGH	Head / Tail Wind	Down / Up Hill	Above / Below ISA	per 5 KTS above VREF	One Reverser	No Reverser
6	4630	300 / -250	140 / 170	-210 / 670	90 / -80	120 / -120	330	160	250
5	5880	490 / -380	230 / 310	-320 / 1110	190 / -160	190 / -190	420	510	1070
4	6450	500 / -390	230 / 320	-340 / 1170	250 / -200	190 / -190	420	640	1380
3	6900	510 / -420	240 / 330	-350 / 1230	310 / -240	200 / -200	410	800	1830
2	7670	670 / -520	320 / 450	-450 / 1610	410 / -320	260 / -260	450	1260	3430

737-8 and 737-8200 Two Position Tailskid, FLAPS 40, VREF40

Landing Distances and Adjustments (Feet)									
Runway Condition Code	Reference Distance	Weight Adjustment	Altitude Adjustment*	Wind Adjustment per 10 Knots	Slope Adjustment per 1%	Temperature Adjustment per 10°C	Approach Speed Adjustment	Reverse Thrust Adjustment	
	150,000 LB Landing Weight	Per 10,000 LB Above / Below 150,000 LB	Per 1,000 ft STD / HIGH	Head / Tail Wind	Down / Up Hill	Above / Below ISA	per 5 KTS above VREF	One Reverser	No Reverser
6	4600	310 / -250	140 / 170	-210 / 670	90 / -70	120 / -120	330	160	250
5	5830	500 / -370	230 / 310	-320 / 1110	190 / -160	190 / -190	420	510	1060
4	6420	510 / -390	240 / 320	-330 / 1160	250 / -200	190 / -190	420	630	1370
3	6870	520 / -410	250 / 330	-350 / 1220	310 / -240	200 / -200	410	800	1820
2	7630	680 / -520	330 / 450	-450 / 1610	410 / -320	260 / -260	450	1250	3400

737-9 FLAPS 40, VREF40									
Landing Distances and Adjustments (Feet)									
	Reference Distance	Weight Adjustment	Altitude Adjustment*	Wind Adjustment per 10 Knots	Slope Adjustment per 1%	Temperature Adjustment per 10°C	Approach Speed Adjustment	Reverse Thrust Adjustment	
Runway Condition Code	160,000 LB Landing Weight	Per 10,000 LB Above / Below 160,000 LB	Per 1,000 ft STD / HIGH	Head / Tail Wind	Down / Up Hill	Above / Below ISA	per 5 KTS above VREF	One Reverser	No Reverser
6	4920	330 / -250	150 / 180	-210 / 690	90 / -80	130 / -130	330	170	260
5	6280	520 / -370	250 / 340	-330 / 1160	210 / -180	200 / -200	430	550	1150
4	6850	520 / -390	250 / 340	-350 / 1200	270 / -220	210 / -210	430	660	1410
3	7300	540 / -410	260 / 350	-360 / 1260	330 / -260	210 / -210	430	820	1830
2	8140	690 / -510	340 / 470	-460 / 1650	450 / -340	270 / -270	460	1290	3420

*For landing distance at or below 8,000 ft pressure altitude, apply the STD adjustment. For altitudes higher than 8,000 ft, first apply the STD adjustment to derive a new reference landing distance for 8,000 ft then apply the HIGH adjustment to this new reference distance.

Reference distance is based on MAX MANUAL braking, sea level, standard day, no wind or slope and maximum reverse thrust.

Reference distance includes a distance from threshold to touchdown associated with a flare time of 7 seconds.

Distances are based on SPOILERS failure distances which conservatively approximates the effects of 5G interference after the Reverse Thrust Adjustment for no Reversers is applied.

Actual (unfactored) distances are shown.

Note: per procedure, MAX MANUAL braking is not required for normal operations.

End of Method B

Determine Autobrake Settings

- Determine desired AUTOBRAKE setting by using the normal configuration landing distance.

Note: Normal manual or normal autobrakes can be used. The use of maximum brakes is not needed except as stated in the During Landing section below.

During Approach

- Monitor radio altimeters for anomalies.
- Monitor performance of autopilot and autothrottle. If the autopilot or autothrottle is not performing as expected, disconnect both the autopilot and autothrottle and apply manual inputs to ensure proper control of flight path.

At DA(H), MDA(H), or the Missed Approach Point

- If suitable visual reference is established, disengage the autopilot and autothrottle and continue for a normal manual landing.
- If a go-around is needed, do the go-around and the missed approach procedure either in manual or automatic flight.

During Landing

- Radio altitude-based altitude aural callouts during approach may not be available or may be erroneous.
- Manual deployment of the speedbrakes may be needed.
- If the thrust reversers do not deploy, immediately ensure the speedbrakes are extended, apply manual braking, and modulate as needed for the existing runway conditions.

Note: In some conditions, maximum manual braking may be needed throughout the entire landing roll.

During Go-around and Missed Approach

- TO/GA mode may not be available.
- Monitor thrust and verify that thrust increases.
- Monitor pitch mode engagement.
- Monitor roll mode engagement.
- Autopilot may not engage.

(i) Terminating Action for AFM Revision

(1) Modifying the airplane from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane terminates the limitations in paragraph (h)(1) of this AD and the operating procedures in paragraph (h)(2) of this AD for that airplane.

(2) After modifying the airplane to a radio altimeter tolerant airplane, the limitations in paragraph (h)(1) of this AD and the operating procedures in paragraph (h)(2) of this AD may be removed from the AFM.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(3) The following AMOCs approved previously for AD 2023-12-11, Amendment 39-22469 (88 FR 40011, June 21, 2023) are approved as AMOCs for paragraph (g)(1) of this AD: FAA AMOC letters 720-23-00137, 720-23-00138, 720-23-00158, 720-23-00169, 720-24-00012, 720-25-00025, 720-25-00031, and 720-26-00009.

(k) Additional Information

For more information about this AD, contact Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817-222-5390; email: operationalssafety@faa.gov.

(l) Material Incorporated by Reference

None.

Issued on June 25, 2026.

Brian Knaup,

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

[FR Doc. 2026-13208 Filed 6-26-26; 4:15 pm]

BILLING CODE 4910-13-C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-7204; Project Identifier AD-2026-00548-T; Amendment 39-23396; AD 2026-13-13]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 737-, -200, -200C, -300, -400, -500, -600, -700, -700C, -800, -900, and -900ER series airplanes, except for Model 737-200 and -200C series airplanes equipped with a certain flight control system. This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7-3.98 GHz frequency band (5G Lower C-Band) while operating in Canadian airspace, and the determination that, during approach, landings, and go-arounds, as a result of this interference, certain airplane systems may not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged, which could result in reduced ability of the flightcrew to maintain safe flight and landing of the airplane. This AD requires revising the existing airplane flight manual (AFM) to incorporate limitations prohibiting certain operations requiring radio altimeter data when operating in Canadian airspace. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 1, 2026.

The FAA must receive comments on this AD by August 14, 2026.

ADDRESSES: You may send comments, using the procedures found in 14 CFR

11.43 and 11.45, by any of the following methods:

- **Federal eRulemaking Portal:** Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- **Fax:** 202-493-2251.

- **Mail:** U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) by searching for and locating Docket No. FAA-2026-7204; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817-222-5390; email: operationalssafety@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include Docket No. FAA-2026-7204 and Project Identifier AD-2026-00548-T at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to [regulations.gov](https://www.regulations.gov), including any personal

information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817-222-5390; email: operationalsafety@faa.gov. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2021-23-12, Amendment 39-21810 (86 FR 69984, December 9, 2021) (AD 2021-23-12), for all transport and commuter category airplanes equipped with a radio altimeter. AD 2021-23-12 was prompted by a determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 5G Lower C-Band, which is close to the frequency bands used by radio altimeters (4.2-4.4 GHz). AD 2021-23-12 required revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations requiring radio altimeter data when in the presence of 5G Lower C-Band interference as identified by Notices to Air Missions (NOTAMs). The agency issued AD 2021-23-12 because radio altimeter anomalies that are undetected by the automation or pilot, particularly close to the ground (e.g., landing flare), could lead to loss of continued safe flight and landing.

The FAA subsequently identified an additional hazard presented by 5G Lower C-Band interference on Boeing Model 737-100, -200, -200C, -300, -400, -500, -600, -700, -700C, -800, -900, and -900ER series airplanes,

except for Model 737-200 and -200C series airplanes equipped with an SP-77 flight control system, and issued AD 2022-05-04, Amendment 39-21955 (87 FR 10299, February 24, 2022) (AD 2022-05-04). AD 2022-05-04 was prompted by the unsafe condition in AD 2021-23-12, as well as a determination that, during approach, landings, and go-arounds, as a result of this interference, certain airplane systems may not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged, which could result in reduced ability of the flightcrew to maintain safe flight and landing of the airplane. AD 2022-05-04 required revising the limitations and operating procedures sections of the existing AFM to incorporate specific operating procedures for instrument landing system (ILS) approaches, speedbrake deployment, go-arounds, and missed approaches, when in the presence of 5G Lower C-Band interference as identified by NOTAM.

After the FAA issued AD 2021-23-12 and AD 2022-05-04, the agency determined that additional limitations were needed due to the continued deployment of new 5G Lower C-Band base stations whose signals were expected to cover most of the contiguous U.S., as well as the determination that radio altimeter anomalies could lead to increased flightcrew workload and flightcrew desensitization to warnings. Therefore, the FAA issued AD 2023-10-02, Amendment 39-22438 (88 FR 34065, May 26, 2023) (AD 2023-10-02), to supersede AD 2021-23-12, and the FAA issued AD 2023-12-13, Amendment 39-22471 (88 FR 39996, June 21, 2023) (AD 2023-12-13), to supersede AD 2022-05-04.

Currently, AD 2023-12-13 requires revising the limitations section of the existing AFM to incorporate limitations for dispatch or release to airports, and approach, landing, and go-around on runways, in the entire contiguous U.S. airspace instead of only in areas identified by NOTAM; however, AD 2023-12-13 permits radio altimeter tolerant airplanes to perform these operations at 5G Lower C-Band mitigated airports as identified in an FAA Domestic Notice.

Actions Since AD 2023-12-13 Was Issued

Since the FAA issued AD 2023-12-13, Transport Canada, which is the aviation authority for Canada, issued AD CF-2024-14, dated May 15, 2024 (Transport Canada AD CF-2024-14), to correct an unsafe condition for all

transport and commuter category airplanes with a radio altimeter. Transport Canada AD CF-2024-14 states that in July 2023, Innovation, Science and Economic Development Canada (ISED), Canada's spectrum regulator, published Standard Radio System Plans (SRSP)-520 Issue 3¹ and Radio Standard Specifications (RSS)-192 Issue 5,² which define the spectrum environment for the 3.45-3.90 GHz frequency band in Canada. Transport Canada AD CF-2024-14 further states that spectrum auctions for the 3.45-3.65 GHz and the 3.65-3.9 GHz band were completed in 2021 and 2023, respectively.

In July 2023, ISED implemented measures to mitigate Lower C-Band interference to radio altimeters, which provide the Canadian airspace greater protection from 5G Lower C-Band interference to radio altimeters as compared to the Lower C-Band environment in the contiguous U.S. airspace. These measures include exclusion and protection zones and airport effective isotropic radiated power (EIRP) elevation mask (a restriction that requires nearby cell tower signals to be angled downward so they do not interfere with aircraft altimeters) at certain airport runways covering the majority of air traffic in Canada, as well as nationwide reduced fundamental power emissions based on the degree of antenna uptilt above the horizon to minimize emissions from 5G base stations toward aircraft.

In late March 2026, Transport Canada notified the FAA that, beginning July 1, 2026, changes in the 5G Lower C-Band protection mitigations established by ISED in 2023 would result in a more severe 5G interference environment in the Canadian airspace. Exclusion and protection zones at airports will no longer exist and updates to the airport EIRP elevation mask, nationwide tilt restriction, emitter height limitation and reduced spurious emissions will only protect airplanes that are radio altimeter tolerant. The change in mitigations will result in an unsafe condition in the Canadian 5G interference environment.

Transport Canada determined that radio altimeters cannot be relied upon to perform their intended function if they experience interference from

¹ <https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/standard-radio-system-plans/srsp-520-technical-requirements-fixed-and-or-mobile-systems-including-flexible-use-broadband-systems>.

² <https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/radio-equipment-standards/radio-standards-specifications-rss/rss-192-flexible-use-broadband-equipment-operating-band-3450-3900-mhz>.

wireless broadband operations in the 3.45–3.98 GHz frequency band. Transport Canada based its determination on the same unsafe condition found by the FAA in AD 2023–10–02. As a result, Transport Canada AD CF–2024–14 requires revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations requiring radio altimeter data, due to the presence of 5G Lower C-Band interference, while operating in Canadian airspace. As terminating action for the operating limitations, Transport Canada AD CF–2024–14 provides that operators may upgrade their radio altimeters to demonstrate the tolerances for emissions as specified in Transport Canada AD CF–2024–14.

Boeing subsequently conducted an analysis of the expected changes in the 5G Lower C-Band environment in Canada and the effects of interference with radio altimeters with respect to the Boeing fleet. In May 2026, Boeing reported that certain airplane configurations will not demonstrate tolerance to radio altimeter interference in the new 5G environment in Canada. Therefore, based on this information, the FAA determined that the unsafe condition identified in AD 2023–12–13 exists for Model 737–100, –200, –200C, –300, –400, –500, –600, –700, –700C, –800, –900, and –900ER series airplanes, except for Model 737–200 and –200C series airplanes equipped with an SP–77 flight control system, when operating in the Canadian airspace. As a result, operating limitations similar to the limitations required by AD 2023–12–13 are necessary.

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

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

For non-radio altimeter tolerant airplanes, this AD requires, before further flight in Canadian airspace, revising the existing AFM to incorporate limitations for dispatch or release to airports, and approach, landing, and go-around on runways when operating in Canadian airspace. This AD provides that modifying the airplane from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane terminates the AFM operating limitations for that airplane.

While AD 2023–12–13 also specifies limitations for dispatch or release to airports, and approach, landing, and go-around on runways for radio altimeter tolerant airplanes except at 5G Lower C-Band mitigated airports, this AD has no limitations for radio altimeter tolerant airplanes. The interference environment at Canadian airports after July 1, 2026, will be mitigated enough such that those limitations are not necessary for radio altimeter tolerant airplanes. The FAA also notes that most Model 737–100, –200, –200C, –300, –400, –500, –600, –700, –700C, –800, –900, and –900ER series radio altimeter tolerant airplanes are not subject to the limitations in AD 2023–12–13 under the provisions of an FAA-approved AMOC.

An airplane that is a radio altimeter tolerant airplane using a method approved by the FAA for AD 2023–12–13 is also a radio altimeter tolerant airplane for the purposes of paragraph (g)(1) of this AD. Alternative methods of compliance (AMOC) listed in paragraph (j)(3) of this AD are approved for this AD.

Differences From Transport Canada AD CF–2024–14

Transport Canada AD CF–2024–14 specifies the fundamental emissions are in the 3.45–3.98 GHz frequency band, while this AD specifies the 3.7–3.98 GHz frequency band. AD 2023–10–02 and AD 2023–12–13 identified an unsafe condition from wireless broadband transmissions in the 3.7–3.98 GHz frequency band, and this AD is based on that same determination. In addition, an airplane determined to be a radio altimeter tolerant airplane for the purposes of AD 2023–12–13, which has demonstrated the performance tolerances for fundamental emissions within the 3.7–3.98 GHz frequency band, would also be a radio altimeter tolerant airplane for purposes of this AD. Frequencies less than 3.7 GHz are further away from the frequency bands used by radio altimeters (4.2 to 4.4 GHz), so an airplane determined to be tolerant in the range of 3.7–3.98 GHz is also tolerant to emissions less than 3.7 GHz.

Interim Action

The FAA considers this AD to be an interim action. The FAA may consider further rulemaking if the Canadian 5G C-Band interference environment changes or if Canada issues an operational rule to address 5G C-Band interference with radio altimeters.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 5G Lower C-Band. This interference may cause other airplane systems to not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged, which could result in reduced ability of the flightcrew to maintain safe flight and landing of the airplane. The urgency is based on a change in the 5G Lower C-Band environment in Canada, which is scheduled to occur on July 1, 2026. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA notes that since operators must comply with this AD before further flight in Canadian airspace, airplanes that do not operate in Canada will not have to comply and therefore will have no costs under this AD.

The FAA estimates that this AD affects 1,995 airplanes of U.S. registry. The FAA expects that many of the affected airplanes have upgraded radio

altimeters; therefore, the FAA estimates the total number of airplanes affected by this AD to be less than the total fleet size provided in this AD. The FAA estimates

the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
AFM revision for non-RAT airplanes.	1 work-hour × \$85 per hour = \$85	\$0	\$85	Up to \$169,575.

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Action	Labor cost	Parts cost	Cost per product
Modification (radio altimeter replacement option).	.....	.....	Up to \$120,000 (includes parts and labor).
Modification (filter addition option)	24 work-hours × \$85 per hour = \$2,040 per filter.	\$12,000 per filter	Up to \$14,040 (includes parts and labor).

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–13–13 The Boeing Company:
Amendment 39–23396; Docket No. FAA–2026–7204; Project Identifier AD–2026–00548–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 1, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 737–100, –200, –200C, –300, –400, –500, –600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category, except for Model 737–200 and –200C series airplanes equipped with an SP–77 flight control system.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7–3.98 GHz frequency band (5G Lower C-Band) when operating in Canadian airspace, and a determination that, during approach, landings, and go-arounds, as a result of this interference, certain airplane systems may not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged. The FAA is issuing this AD to address 5G Lower C-Band interference that could result in increased flightcrew workload and could lead to reduced ability of the flightcrew to maintain safe flight and landing of the airplane.

(f) Compliance

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

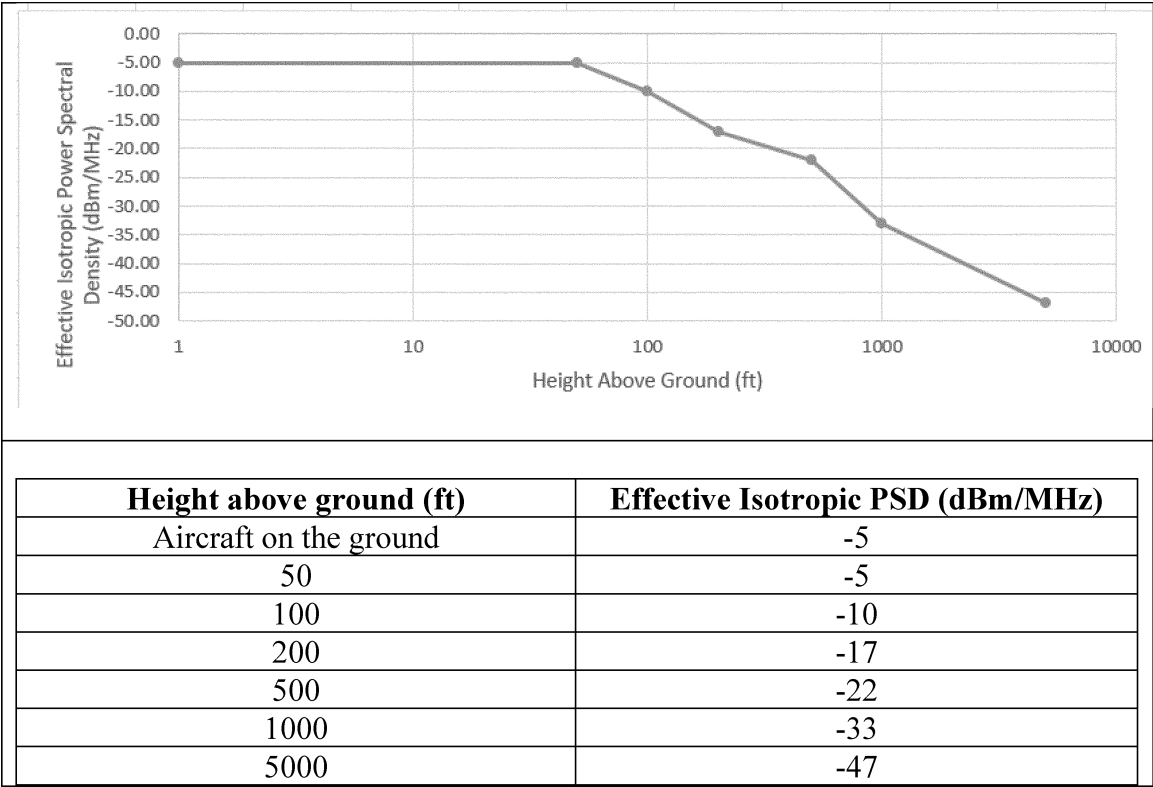
(g) Definitions

(1) For purposes of this AD, a "radio altimeter tolerant airplane" is one for which the radio altimeter, as installed, demonstrates the tolerances specified in paragraphs (g)(1)(i) and (ii) of this AD, using a method approved by the FAA. No actions are required by this AD for radio altimeter tolerant airplanes.

(i) Tolerance to radio altimeter interference, for the fundamental emissions (3.7–3.98 GHz), at or above the power spectral density (PSD) curve threshold specified in figure 1 to paragraph (g)(1)(i) of this AD.

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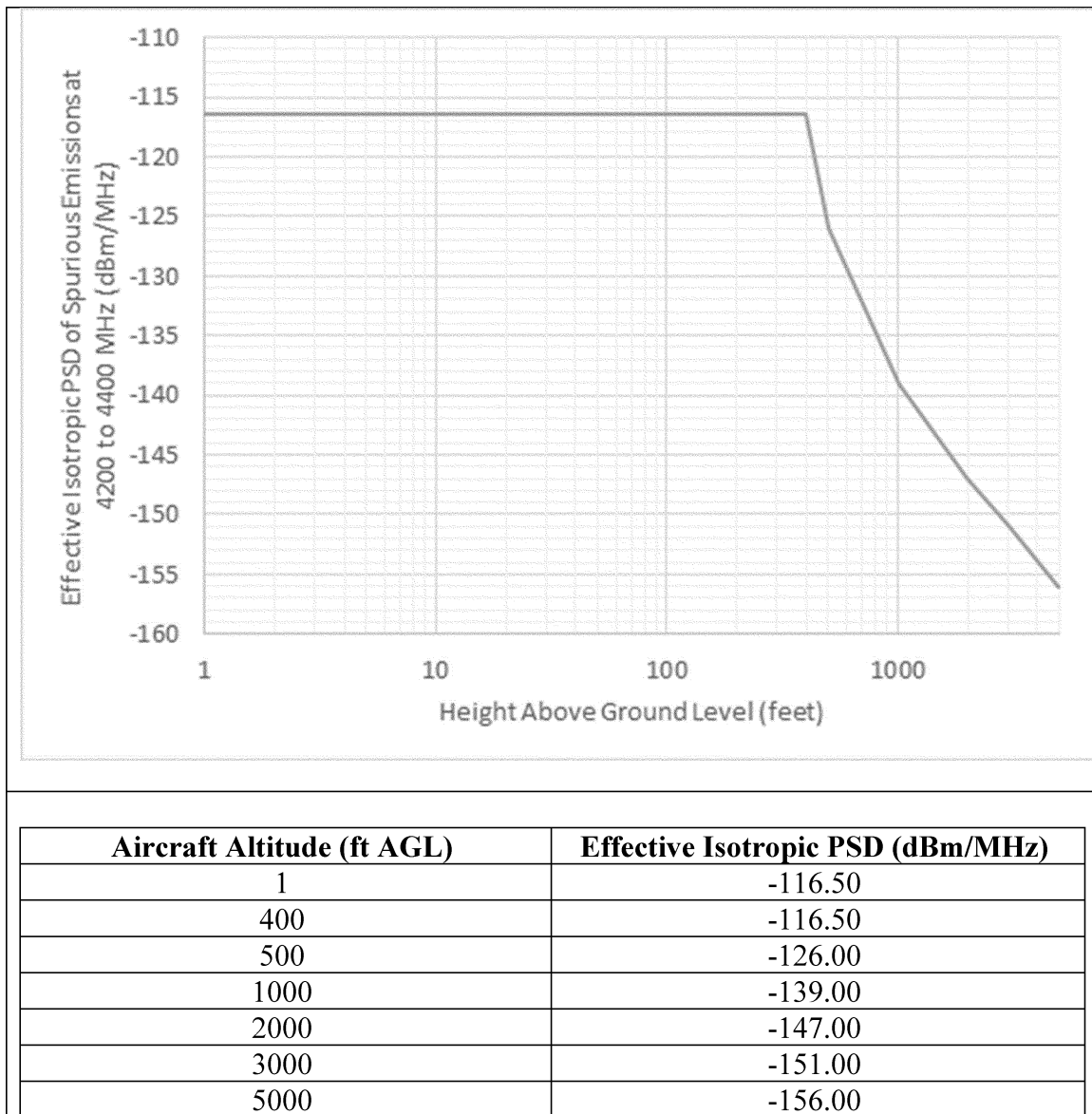
**Figure 1 to Paragraph (g)(1)(i)—
Fundamental Effective Isotropic PSD at
Outside Interface of Aircraft Antenna**



(ii) Tolerance to radio altimeter interference, for the spurious emissions (4.2–4.4 GHz), at or above the PSD curve threshold

specified in figure 2 to paragraph (g)(1)(ii) of this AD.

Figure 2 to Paragraph (g)(1)(ii)—Spurious Effective Isotropic PSD at Outside Interface of Aircraft Antenna



(2) For purposes of this AD, a “non-radio altimeter tolerant airplane” is one for which the radio altimeter, as installed, does not demonstrate the tolerances specified in paragraphs (g)(1)(i) and (ii) of this AD.

(h) Airplane Flight Manual (AFM) Revision

For non-radio altimeter tolerant airplanes: Before further flight in Canadian airspace, do the actions specified in paragraphs (h)(1) and (2) of this AD.

(1) Revise the Limitations Section of the existing AFM to include the information specified in figure 3 to paragraph (h)(1) of

this AD. This may be done by inserting a copy of figure 3 to paragraph (h)(1) of this AD into the existing AFM.

Figure 3 to Paragraph (h)(1)—AFM Limitations Revision for Non-Radio Altimeter Tolerant Airplanes in Canadian Airspace

(As required by AD 2026-13-13)

Radio Altimeter 5G Lower C-Band Interference, Approach, Landing, and Go-Around (Canadian Airspace)

Due to the presence of 5G Lower C-Band wireless broadband interference, the following limitations are required for dispatch or release to airports, and approach, landing, and go-around on runways, in Canadian airspace.

Approach, Landing, and Go-Around

Operators must use the Radio Altimeter 5G C-Band Interference, Approach, Landing, and Go-Around procedure contained in the Operating Procedures Section of this AFM.

(2) Revise the Operating Procedures Section of the existing AFM to include the information specified in figure 4 to paragraph (h)(2) of this AD or figure 5 to paragraph (h)(2) of this AD, as applicable. This may be done by inserting a copy of figure 4 to paragraph (h)(2) of this AD or figure 5 to

paragraph (h)(2) of this AD, as applicable, into the Operating Procedures Section of the existing AFM. An AFM with an Operating Procedures Section that complies with paragraph (k)(1) of AD 2023-12-13, Amendment 39-22471 (88 FR 39996, June 21, 2023) is acceptable for compliance with

the requirements of this paragraph of this AD.

Figure 4 to Paragraph (h)(2)—AFM Operating Procedures Revision for Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes

(As required by AD 2026-13-13)

Radio Altimeter 5G C-Band Interference, Approach, Landing, and Go-Around

ILS Approaches

For ILS approaches other than SA CAT I, SA CAT II, CAT II, and CAT III, during any ILS approach with autopilot engaged or flight director ON, execute a go-around for any of the following conditions, unless the runway environment is in sight and a manual, visual landing can be accomplished:

- If the flight directors automatically retract from view, or
- If the pitch guidance indicates FLARE mode prematurely, or
- If the autothrottle retards to IDLE prematurely.

During Go-Around and Missed Approach

If go-around is required, ensure thrust is increased to go-around power. Do not use flight director, autopilot, or autothrottles until reaching a safe altitude. TOGA mode may not be available. Autopilot may not be available. Monitor pitch and roll modes for engagement.

Figure 5 to Paragraph (h)(2)—AFM Operating Procedures Revision for Model 737-600, -700, -700C, -800, -900, and -900ER Series Airplanes

(As required by AD 2026-13-13)

Radio Altimeter 5G C-Band Interference, Approach, Landing, and Go-Around**ILS Approaches**

For ILS approaches other than SA CAT I, SA CAT II, CAT II, and CAT III, during any ILS (and GLS if installed) approach with autopilot engaged or flight director ON, execute a go-around for any of the following conditions, unless the runway environment is in sight and a manual, visual landing can be accomplished:

- If the flight directors automatically retract from view, or
- If the pitch guidance indicates FLARE mode prematurely, or
- If the autothrottle retards to IDLE prematurely.

Landing

Adjust operational (time of arrival) landing distance for manual speedbrakes. Automatic speedbrake deployment may not occur after touchdown.

During Go-Around and Missed Approach

If go-around is required, ensure thrust is increased to go-around power. Do not use flight director, autopilot, or autothrottles until reaching a safe altitude. TOGA mode may not be available. Autopilot may not be available. Monitor pitch and roll modes for engagement.

BILLING CODE 4910-13-C**(i) Terminating Action for AFM Revision**

(1) Modifying the airplane from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane terminates the limitations in paragraph (h)(1) of this AD and the operating procedures in paragraph (h)(2) of this AD for that airplane.

(2) After modifying the airplane to a radio altimeter tolerant airplane, the limitations in paragraph (h)(1) of this AD and the operating procedures in paragraph (h)(2) of this AD may be removed from the AFM.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(3) The following AMOCs approved previously for AD 2023-12-13, Amendment 39-22471 (88 FR 39996, June 21, 2023) are approved as AMOCs for paragraph (g)(1) of this AD: FAA AMOC letters 720-23-00137,

720-23-00138, 720-23-00158, 720-23-00169, 720-25-00025, 720-25-00031, and 720-26-00009.

(k) Additional Information

For more information about this AD, contact Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817-222-5390; email: operational_safety@faa.gov.

(l) Material Incorporated by Reference

None.

Issued on June 25, 2026.

Brian Knaup,

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

[FR Doc. 2026-13206 Filed 6-26-26; 4:15 pm]

BILLING CODE 4910-13-P

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

[Docket No. FAA-2026-7206; Project Identifier AD-2026-00550-T; Amendment 39-23398; AD 2026-13-15]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 707, 717, and 727 airplanes; Model DC-8, DC-9, and DC-10 airplanes; Model MD-10 and MD-11 airplanes; Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), and MD-88 airplanes; and Model MD 90-30 airplanes. This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7-3.98 GHz frequency band (5G Lower C-Band)

while operating in Canadian airspace, and the determination that during approach, landings, and go-arounds, as a result of this interference, certain airplane systems may not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged, which could result in reduced ability of the flightcrew to maintain safe flight and landing of the airplane. This AD requires revising the existing airplane flight manual (AFM) to incorporate limitations prohibiting certain operations requiring radio altimeter data when operating in Canadian airspace. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 1, 2026.

The FAA must receive comments on this AD by August 14, 2026.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2026–7206; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5390; email: *operationalsafety@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include Docket No. FAA–2026–7206 and Project Identifier AD–2026–00550–T at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any

recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5390; email: *operationalsafety@faa.gov*. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2021–23–12, Amendment 39–21810 (86 FR 69984, December 9, 2021) (AD 2021–23–12), for all transport and commuter category airplanes equipped with a radio altimeter. AD 2021–23–12 was prompted by a determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 5G Lower C-Band, which is close to the frequency bands used by radio altimeters (4.2–4.4 GHz). AD 2021–23–12 required revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations requiring radio altimeter data when in the presence of 5G Lower C-Band interference as identified by Notices to Air Missions (NOTAMs). The agency

issued AD 2021–23–12 because radio altimeter anomalies that are undetected by the automation or pilot, particularly close to the ground (e.g., landing flare), could lead to loss of continued safe flight and landing.

The FAA subsequently identified an additional hazard presented by 5G Lower C-Band interference on Boeing Model 707, 717, and 727 airplanes; Model DC–8, DC–9, and DC–10 airplanes; Model MD–10 and MD–11 airplanes; Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes; and Model MD 90–30 airplanes and issued AD 2022–09–18, Amendment 39–22038 (87 FR 31097, May 23, 2022) (AD 2022–09–18). AD 2022–09–18 was prompted by the unsafe condition in AD 2021–23–12, as well as a determination that during approach, landings, and go-arounds, as a result of interference from the 5G Lower C-Band, certain airplane systems may not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged, which could result in reduced ability of the flightcrew to maintain safe flight and landing of the airplane. AD 2022–09–18 required revising the limitations and operating procedures sections of the existing AFM to incorporate specific operating procedures for, depending on the airplane model, instrument landing system (ILS) approaches, non-precision approaches, ground spoiler deployment, and go-around and missed approaches, when in the presence of 5G Lower C-Band interference as identified by NOTAMs.

After the FAA issued AD 2021–23–12 and AD 2022–09–18, the agency determined that additional limitations were needed due to the continued deployment of new 5G Lower C-Band base stations whose signals were expected to cover most of the contiguous U.S., as well as the determination that radio altimeter anomalies could lead to increased flightcrew workload and flightcrew desensitization to warnings. Therefore, the FAA issued AD 2023–10–02, Amendment 39–22438 (88 FR 34065, May 26, 2023) (AD 2023–10–02), to supersede AD 2021–23–12, and the FAA issued AD 2023–12–15, Amendment 39–22473; (88 FR 40023, June 21, 2023) (AD 2023–12–15), to supersede AD 2022–09–18.

Currently, AD 2023–12–15 requires revising the limitations section of the existing AFM to incorporate limitations for, depending on the airplane model, ILS approaches, non-precision approaches, ground spoiler deployment,

and go-around and missed approaches, in the entire contiguous U.S. airspace instead of only in areas identified by NOTAM; however, AD 2023–12–15 permits radio altimeter tolerant airplanes to perform these operations at 5G Lower C-Band mitigated airports as identified in an FAA Domestic Notice.

Actions Since AD 2023–12–15 Was Issued

Since the FAA issued AD 2023–12–15, Transport Canada, which is the aviation authority for Canada, issued AD CF–2024–14, dated May 15, 2024 (Transport Canada AD CF–2024–14), to correct an unsafe condition for all transport and commuter category airplanes with a radio altimeter. Transport Canada AD CF–2024–14 states that in July 2023, Innovation, Science and Economic Development Canada (ISED), Canada's spectrum regulator, published Standard Radio System Plans (SRSP)–520 Issue 3¹ and Radio Standard Specifications (RSS)–192 Issue 5,² which define the spectrum environment for the 3.45–3.90 GHz frequency band in Canada. Transport Canada AD CF–2024–14 further states that spectrum auctions for the 3.45–3.65 GHz and the 3.65–3.9 GHz band were completed in 2021 and 2023, respectively.

In July 2023, ISED implemented measures to mitigate Lower C-Band interference to radio altimeters, which provide the Canadian airspace greater protection from 5G Lower C-Band interference to radio altimeters as compared to the Lower C-Band environment in the contiguous U.S. airspace. These measures include exclusion and protection zones and airport effective isotropic radiated power (EIRP) elevation mask (a restriction that requires nearby cell tower signals to be angled downward so they do not interfere with aircraft altimeters) at certain airport runways covering the majority of air traffic in Canada, as well as nationwide reduced fundamental power emissions based on the degree of antenna uptilt above the horizon to minimize emissions from 5G base stations toward aircraft.

In late March 2026, Transport Canada notified the FAA that, beginning July 1, 2026, changes in the 5G Lower C-Band

protection mitigations established by ISED in 2023 would result in a more severe 5G interference environment in the Canadian airspace. Exclusion and protection zones at airports will no longer exist and updates to the airport EIRP elevation mask, nationwide tilt restriction, emitter height limitation and reduced spurious emissions will only protect airplanes that are radio altimeter tolerant. The change in mitigations will result in an unsafe condition in the Canadian 5G interference environment.

Transport Canada determined that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.45–3.98 GHz frequency band. Transport Canada based its determination on the same unsafe condition found by the FAA in AD 2023–10–02. As a result, Transport Canada AD CF–2024–14 requires revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations requiring radio altimeter data, due to the presence of 5G Lower C-Band interference, while operating in Canadian airspace. As terminating action for the operating limitations, Transport Canada AD CF–2024–14 provides that operators may upgrade their radio altimeters to demonstrate the tolerances for emissions as specified in Transport Canada AD CF–2024–14.

Boeing subsequently conducted an analysis of the expected changes in the 5G Lower C-Band environment in Canada and the effects of interference with radio altimeters with respect to the Boeing fleet. In May 2026, Boeing reported that certain airplane configurations will not demonstrate tolerance to radio altimeter interference in the new 5G environment in Canada. Therefore, based on this information, the FAA determined that the unsafe condition identified in AD 2023–12–15 exists for Model 707, 717, and 727 airplanes; Model DC–8, DC–9, and DC–10 airplanes; Model MD–10 and MD–11 airplanes; Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes; and Model MD 90–30 airplanes when operating in Canadian airspace. As a result, operating limitations similar to the limitations required by AD 2023–12–15 are necessary.

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

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely

to exist or develop in other products of the same type design.

AD Requirements

For non-radio altimeter tolerant airplanes, this AD requires, before further flight in Canadian airspace, revising the existing AFM to incorporate limitations for, depending on the airplane model, ILS approaches, non-precision approaches, ground spoiler deployment, and go-around and missed approaches when operating in Canadian airspace. This AD provides that modifying the airplane from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane terminates the AFM operating limitations for that airplane.

While AD 2023–12–15 also incorporates limitations for, depending on the airplane model, ILS approaches, non-precision approaches, ground spoiler deployment, and go-around and missed approaches for radio altimeter tolerant airplanes except at 5G Lower C-Band mitigated airports, this AD has no limitations for radio altimeter tolerant airplanes. The interference environment at Canadian airports after July 1, 2026, will be mitigated enough such that those limitations are not necessary for radio altimeter tolerant airplanes. The FAA also notes that most Model 707, 717, and 727 airplanes; Model DC–8, DC–9, and DC–10 airplanes; Model MD–10 and MD–11 airplanes; Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes; and Model MD 90–30 radio altimeter tolerant airplanes are not subject to the limitations in AD 2023–12–15 under the provisions of an FAA-approved AMOC.

An airplane that is a radio altimeter tolerant airplane using a method approved by the FAA for AD 2023–12–15 is also a radio altimeter tolerant airplane for the purposes of paragraph (g)(1) of this AD. Alternative methods of compliance (AMOC) listed in paragraph (j)(3) of this AD are approved for this AD.

Differences From Transport Canada AD CF–2024–14

Transport Canada AD CF–2024–14 specifies the fundamental emissions are in the 3.45–3.98 GHz frequency band, while this AD specifies the 3.7–3.98 GHz frequency band. AD 2023–10–02 and AD 2023–12–15 identified an unsafe condition from wireless broadband transmissions in the 3.7–3.98 GHz frequency band, and this AD is based on that same determination. In addition, an airplane determined to be a radio altimeter tolerant airplane for the purposes of AD 2023–12–15, which

¹ <https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/standard-radio-system-plans/srsp-520-technical-requirements-fixed-and-or-mobile-systems-including-flexible-use-broadband-systems>.

² <https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/radio-equipment-standards/radio-standards-specifications-rss/rss-192-flexible-use-broadband-equipment-operating-band-3450-3900-mhz>.

has demonstrated the performance tolerances for fundamental emissions within the 3.7–3.98 GHz frequency band, would also be a radio altimeter tolerant airplane for purposes of this AD. Frequencies less than 3.7 GHz are further away from the frequency bands used by radio altimeters (4.2–4.4 GHz), so an airplane determined to be tolerant in the range of 3.7–3.98 GHz is also tolerant to emissions less than 3.7 GHz.

Interim Action

The FAA considers this AD to be an interim action. The FAA may consider further rulemaking if the Canadian 5G C-Band interference environment changes or if Canada issues an operational rule to address 5G C-Band interference with radio altimeters.

Justification for Immediate Adoption and Determination of the Effective Date

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

prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 5G Lower C-Band. This interference can cause other airplane systems to not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged, which could result in reduced ability of the flightcrew to maintain safe flight and landing of the airplane. The urgency is based on a change in the 5G Lower C-band environment in Canada, which is scheduled to occur on July 1, 2026. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d)

for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Regulatory Flexibility Act

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

Costs of Compliance

The FAA notes that since operators must comply with this AD before further flight in Canadian airspace, airplanes that do not operate in Canada will not have to comply and therefore will have no costs under this AD.

The FAA estimates that this AD affects 502 airplanes of U.S. registry. The FAA expects that many of the affected airplanes have upgraded radio altimeters; therefore, the FAA estimates the total number of airplanes affected by this AD to be less than the total fleet size provided in this AD. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
AFM revision for non-RAT airplanes	1 work-hour × \$85 per hour = \$85	\$0	\$85	Up to \$42,670.

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Action	Labor cost	Parts cost	Cost per product
Modification (radio altimeter replacement option).	.....	.....	Up to \$120,000 (includes parts and labor).
Modification (filter addition option)	24 work-hours × \$85 per hour = \$2,040 per filter.	\$12,000 per filter ..	Up to \$14,040 (includes parts and labor).

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and

procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

responsibilities among the various levels of government.

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

- (1) Is not a “significant regulatory action” under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–13–15 The Boeing Company:
Amendment 39–23398; Docket No. FAA–2026–7206; Project Identifier AD–2026–00550–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 1, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company airplanes identified in paragraphs (c)(1) through (9) of this AD, certificated in any category.

(1) Model 707–100 Long Body, –200, –100B Long Body, and –100B Short Body series airplanes, and Model 707–300, –300B, –300C, and –400 series airplanes.

(2) Model 717–200 airplanes.

(3) Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes.

(4) Model DC–8–11, DC–8–12, DC–8–21, DC–8–31, DC–8–32, DC–8–33, DC–8–41, DC–8–42, DC–8–43, DC–8–51, DC–8–52, DC–8–53, DC–8–55, DC–8F–54, DC–8F–55, DC–8–61, DC–8–62, DC–8–63, DC–8–61F, DC–8–62F, DC–8–63F, DC–8–71, DC–8–72, DC–8–73, DC–8–71F, DC–8–72F, and DC–8–73F airplanes.

(5) Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, DC–9–15F, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–32F (C–9A, C–9B), DC–9–33F, DC–9–34, DC–9–34F, DC–9–41, and DC–9–51 airplanes.

(6) Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes.

(7) Model MD–10–10F and MD–10–30F airplanes.

(8) Model MD–11 and MD–11F airplanes.

(9) Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), MD–88, and MD–90–30 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7–3.98 GHz frequency band (5G Lower C-Band) when operating in Canadian airspace, and a

determination that during approach, landings, and go-arounds, as a result of this interference, certain airplane systems may not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged. The FAA is issuing this AD to address 5G Lower C-Band interference that could result in increased flightcrew workload and could lead to reduced ability of the flightcrew to maintain safe flight and landing of the airplane.

(f) Compliance

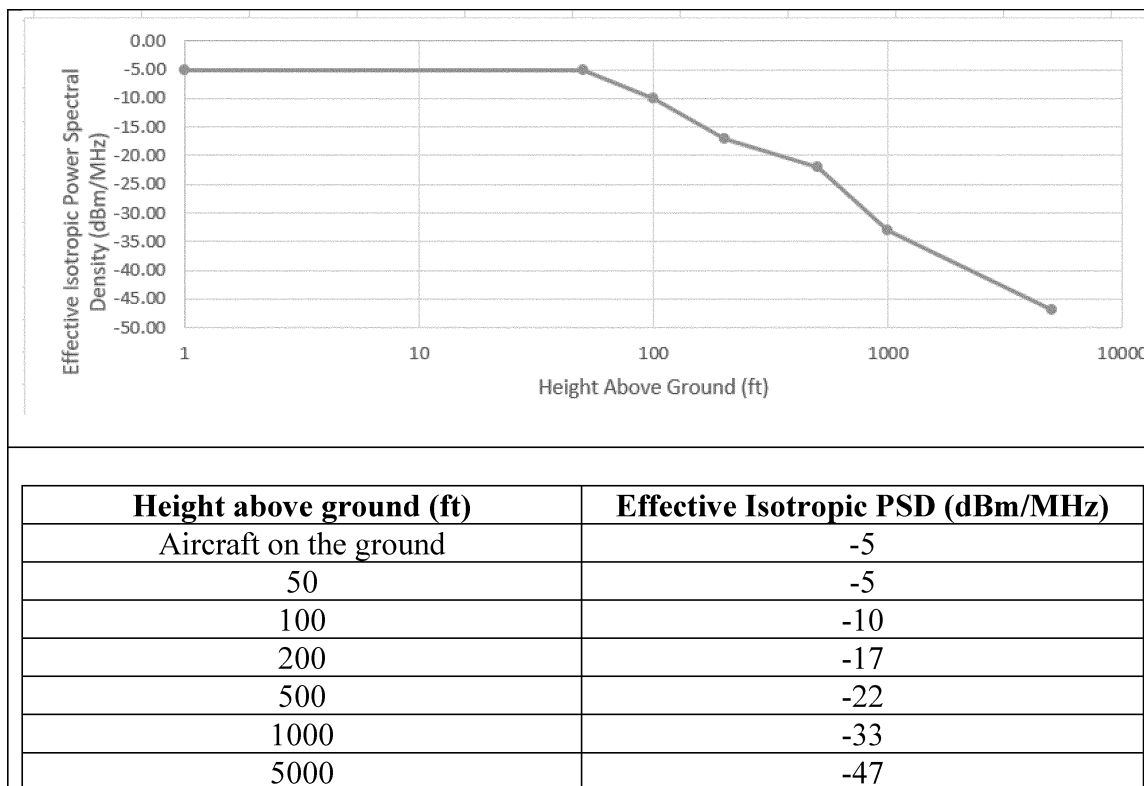
Comply with this AD within the compliance times specified, unless already done.

(g) Definitions

(1) For purposes of this AD, a “radio altimeter tolerant airplane” is one for which the radio altimeter, as installed, demonstrates the tolerances specified in paragraphs (g)(1)(i) and (ii) of this AD, using a method approved by the FAA. No actions are required by this AD for radio altimeter tolerant airplanes.

(i) Tolerance to radio altimeter interference, for the fundamental emissions (3.7–3.98 GHz), at or above the power spectral density (PSD) curve threshold specified in figure 1 to paragraph (g)(1)(i) of this AD.

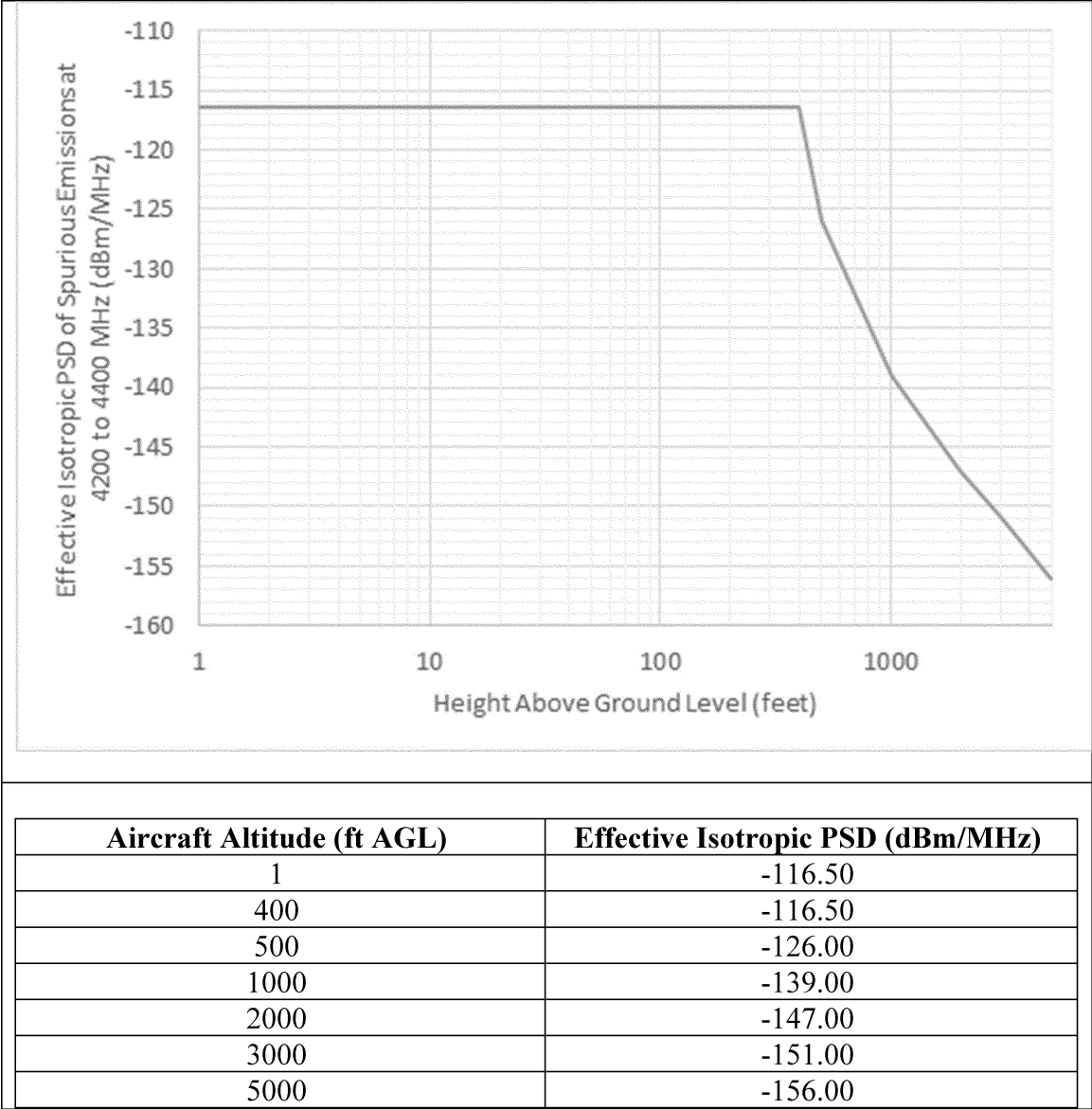
**Figure 1 to Paragraph (g)(1)(i)—
Fundamental Effective Isotropic PSD at
Outside Interface of Aircraft Antenna**



(ii) Tolerance to radio altimeter interference, for the spurious emissions (4.2–4.4 GHz), at or above the PSD curve threshold

specified in figure 2 to paragraph (g)(1)(ii) of this AD.
BILLING CODE 4910–13–P

Figure 2 to Paragraph (g)(1)(ii)—Spurious Effective Isotropic PSD at Outside Interface of Aircraft Antenna



(2) For purposes of this AD, a “non-radio altimeter tolerant airplane” is one for which the radio altimeter, as installed, does not demonstrate the tolerances specified in paragraphs (g)(1)(i) and (ii) of this AD.

(h) Airplane Flight Manual (AFM) Revision

For non-radio altimeter tolerant airplanes: Before further flight in Canadian airspace, do

the actions specified in paragraphs (h)(1) through (8) of this AD, as applicable.
(1) For airplanes identified in paragraphs (c)(1) and (c)(3) through (6) of this AD: Revise the Limitations Section of the existing AFM to include the information specified in figure 3 to paragraph (h)(1) of this AD. This may be done by inserting a copy of figure 3 to

paragraph (h)(1) of this AD into the existing AFM.
Figure 3 to Paragraph (h)(1)—AFM Limitations Revision for Non-Radio Altimeter Tolerant Model 707, 727, DC–8, DC–9 (Except DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87)), and DC–10 Airplanes in Canadian Airspace

(As required by AD 2026-13-15)

**Radio Altimeter 5G Lower C-Band Interference, Approach Procedures
(Canadian Airspace)**

Due to the presence of 5G Lower C-Band wireless broadband interference, the following limitations are required for ILS approaches on runways in Canadian airspace.

ILS Approaches

Operators must use the Radio Altimeter 5G C-Band Interference, ILS Approaches procedure contained in the Operating Procedures Section of this AFM.

(2) For airplanes identified in paragraphs (c)(2), (7), and (8) of this AD: Revise the Limitations Section of the existing AFM to include the information specified in figure 4

to paragraph (h)(2) of this AD. This may be done by inserting a copy of figure 4 to paragraph (h)(2) of this AD into the existing AFM.

Figure 4 to Paragraph (h)(2)—AFM Limitations Revision for Non-Radio Altimeter Tolerant Model 717, MD-10, and MD-11 Airplanes in Canadian Airspace

(As required by AD 2026-13-15)

Radio Altimeter 5G Lower C-Band Interference, Approach, Landing, and Go-Around Procedures (Canadian Airspace)

Due to the presence of 5G Lower C-Band wireless broadband interference, the following limitations are required for approaches, landings, or go-arounds on runways, in Canadian airspace.

ILS and Non Precision Approaches, Landing, and Go-Around

Operators must use the Radio Altimeter 5G C-Band Interference, Approach, Landing, and Go-Around procedures contained in the Operating Procedures Section of this AFM.

(3) For airplanes identified in paragraph (c)(9) of this AD: Revise the Limitations Section of the existing AFM to include the

information specified in figure 5 to paragraph (h)(3) of this AD. This may be done by

inserting a copy of figure 5 to paragraph (h)(3) of this AD into the existing AFM.

Figure 5 to paragraph (h)(3) – AFM Limitations Revision for Non-Radio Altimeter Tolerant Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), MD-88, and MD-90-30 Airplanes in Canadian Airspace

(As required by AD 2026-13-15)

Radio Altimeter 5G Lower C-Band Interference, Approach Procedures (Canadian Airspace)

Due to the presence of 5G Lower C-Band wireless broadband interference, the following limitations are required for approaches in Canadian airspace.

ILS and Non Precision Approaches

Operators must use the Radio Altimeter 5G C-Band Interference, Approaches procedures contained in the Operating Procedures Section of this AFM.

(4) For airplanes identified in paragraphs (c)(1) and (c)(3) through (6) of this AD: Revise the Operating Procedures Section of the existing AFM to include the information specified in figure 6 to paragraph (h)(4) of this AD. This may be done by inserting a copy of figure 6 to paragraph (h)(4) of this AD

into the Operating Procedures Section of the existing AFM. An AFM with an Operating Procedures Section that complies with paragraph (l)(1)(i) of AD 2023–12–15, Amendment 39–22473 (88 FR 40023, June 21, 2023) (AD 2023–12–15) is acceptable for

compliance with the requirements of this paragraph of this AD.

Figure 6 to Paragraph (h)(4)—AFM Operating Procedures Revision for Model 707, 727, DC-8, DC-9 (Except DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), and DC-9-87 (MD-87)), and DC-10

(As required by AD 2026-13-15)

Radio Altimeter 5G C-Band Interference, ILS Approaches

ILS Approaches

For ILS approaches other than SA CAT I, SA CAT II, CAT II, and CAT III, disconnect the autopilot and autothrottles, and place both flight director switches to OFF prior to glideslope intercept.

(5) For airplanes identified in paragraph (c)(2) of this AD: Revise the Operating Procedures Section of the existing AFM to include the information specified in figure 7 to paragraph (h)(5) of this AD. This may be done by inserting a copy of figure 7 to

paragraph (h)(5) of this AD into the Operating Procedures Section of the existing AFM. An AFM with an Operating Procedures Section that complies with paragraph (l)(2)(i) of AD 2023–12–15 is acceptable for compliance

with the requirements of this paragraph of this AD.

Figure 7 to Paragraph (h)(5)—AFM Operating Procedures Revision for Model 717

(As required by AD 2026-13-15)

Radio Altimeter 5G C-Band Interference, Approach, Landing, and Go-Around

ILS Approaches

For ILS approaches other than SA CAT I, SA CAT II, CAT II, and CAT III, disconnect the autopilot prior to glideslope intercept.

Note: Possible erroneous radio altimeter indications may affect autothrottles and flight director guidance; manually intervene if necessary.

Non-Precision Approaches

Non-precision instrument approaches can be conducted using LNAV/VNAV with flight directors, autopilot, and autothrottle to published BARO minimums.

Landing

For landing, the Auto Ground Spoiler function may require manual extension. If manual extension is required, calculate landing distance requirements as specified in Appendix 3, Auto Ground Spoiler System Inop, of this AFM.

During Go-Around and Missed Approach

If go-around is required, initial flight director pitch guidance will provide proper speed and pitch targets, but, under certain 5G interference conditions, the flight director cannot be commanded from the Flight Control Panel (FCP) to provide speed or heading guidance, and may not provide altitude capture guidance. If this guidance is not available, manually comply with missed approach procedures, including altitude constraints.

(6) For airplanes identified in paragraph (c)(7) of this AD: Revise the Operating Procedures Section of the existing AFM to include the information specified in figure 8 to paragraph (h)(6) of this AD. This may be done by inserting a copy of figure 8 to

paragraph (h)(6) of this AD into the Operating Procedures Section of the existing AFM. An AFM with an Operating Procedures Section that complies with paragraph (l)(3)(i) of AD 2023-12-15 is acceptable for compliance

with the requirements of this paragraph of this AD.

Figure 8 to Paragraph (h)(6)—AFM Operating Procedures Revision for Model MD-10

(As required by AD 2026-13-15)

Radio Altimeter 5G C-Band Interference, Approach, Landing, and Go-Around**ILS Approaches**

For ILS approaches other than SA CAT I, SA CAT II, CAT II, and CAT III, disconnect the autopilot prior to glideslope intercept.

Note: Possible erroneous radio altimeter indications may affect autothrottles and flight director guidance; manually intervene if necessary.

Non-Precision Approaches

Non-precision instrument approaches can be conducted using LNAV/VNAV with flight directors, autopilot, and autothrottle to published BARO minimums.

Landing

For landing, the Auto Ground Spoiler function may require manual extension. If manual extension is required, calculate landing distance requirements according to the following tables, as applicable.

SERIES 10
50/EXT ESTIMATED LANDING DISTANCES (FEET)
USE MANUAL SPOILERS

Weight 1000 LB		260	280	300	320	340	360	380	400
S.L.	DRY	2800	2900	3030	3160	3290	3410	3540	3660
	WET	3670	3810	3990	4190	4370	4540	4730	4900
2000 FT	DRY	2920	3030	3170	3310	3450	3580	3720	3840
	WET	3840	3990	4190	4400	4600	4780	4980	5170
4000 FT	DRY	3060	3170	3320	3480	3620	3760	3920	4050
	WET	4040	4190	4410	4630	4850	5040	5260	5460
6000 FT	DRY	3210	3330	3490	3650	3820	3960	4130	4270
	WET	4240	4410	4650	4890	5120	5330	5570	5780
8000 FT	DRY	3360	3490	3670	3840	4020	4180	4360	4520
	WET	4460	4650	4900	5160	5410	5640	5900	6130
10000 FT	DRY	3530	3670	3860	4060	4250	4420	4610	4780
	WET	4690	4910	5180	5460	5730	5980	6260	6510

NOTE: Standard day, no wind, zero slope, three engines at maximum reverse thrust to 80 KIAS, then reverse idle to 60 KIAS, then forward idle to stop. (Includes Air Run Distance)

CORRECTIONS:

Temperature: Valid from STD -20°C to STD +40°C

FEET PER °C	DRY	WET
BELOW standard day	-7	-10
ABOVE standard day	+37	+44

Slope: Valid from -2% downhill to +2% uphill

FEET PER 1% SLOPE	DRY	WET
UPHILL	-46	-96
DOWNHILL	+257	+459

Wind: Valid from -10 knot tailwind to +20 knot headwind

FEET PER KNOT	DRY	WET
HEADWIND	-20	-34
TAILWIND	+50	+68

SERIES 10
35/EXT ESTIMATED LANDING DISTANCES (FEET)
USE MANUAL SPOILERS

Weight 1000 LB		260	280	300	320	340	360	380	400
S.L.	DRY	2800	2900	3030	3170	3300	3420	3560	3680
	STD=15°C WET	3710	3850	4050	4250	4450	4620	4820	4990
2000 FT	DRY	2930	3030	3180	3330	3470	3600	3740	3870
	STD=11°C WET	3890	4040	4260	4480	4680	4870	5080	5270
4000 FT	DRY	3070	3180	3330	3490	3640	3790	3940	4080
	STD=7°C WET	4090	4260	4480	4720	4940	5150	5370	5580

6000 FT	DRY	3210	3340	3500	3670	3840	3990	4160	4310
STD=3°C	WET	4300	4490	4730	4980	5220	5440	5690	5910
8000 FT	DRY	3380	3510	3680	3870	4050	4210	4400	4560
STD=-1°C	WET	4530	4730	4990	5260	5530	5770	6030	6280
10000 FT	DRY	3550	3690	3880	4090	4280	4460	4650	4830
STD=-5°C	WET	4790	5000	5280	5580	5860	6120	6410	6670
NOTE: Standard day, no wind, zero slope, three engines at maximum reverse thrust to 80 KIAS, then reverse idle to 60 KIAS, then forward idle to stop. (Includes Air Run Distance)									

CORRECTIONS:

Temperature: Valid from STD -20°C to STD +40°C

FEET PER °C	DRY	WET
BELOW standard day	-7	-10
ABOVE standard day	+17	+25

Slope: Valid from -2% downhill to +2% uphill

FEET PER 1% SLOPE	DRY	WET
UPHILL	-47	-99
DOWNHILL	+125	+300

Wind: Valid from -10 knot tailwind to +20 knot headwind

FEET PER KNOT	DRY	WET
HEADWIND	-20	-34
TAILWIND	+30	+51

SERIES 30
50/EXT ESTIMATED LANDING DISTANCES (FEET)
USE MANUAL SPOILERS

Weight 1000 LB		340	360	380	400	420	440	460	480
S.L.	DRY	3380	3530	3670	3800	3910	4050	4210	4370
STD=15°C	WET	4500	4700	4900	5100	5270	5470	5690	5920
2000 FT	DRY	3550	3710	3850	4000	4120	4270	4440	4610

STD=11°C	WET	4740	4960	5180	5390	5570	5790	6030	6280
4000 FT	DRY	3740	3900	4060	4220	4350	4510	4710	4910
STD=7°C	WET	5010	5250	5480	5710	5910	6150	6440	6720
6000 FT	DRY	3930	4110	4280	4450	4590	4770	5010	5240
STD=3°C	WET	5290	5550	5800	6050	6260	6520	6860	7200
8000 FT	DRY	4140	4330	4510	4720	4910	5120	5390	5650
STD=-1°C	WET	5590	5860	6130	6430	6710	7020	7390	7770
10000 FT	DRY	4370	4570	4770	5010	5260	5510	5800	6110
STD=-5°C	WET	5910	6210	6500	6840	7200	7560	7970	8410
NOTE: Standard day, no wind, zero slope, three engines at maximum reverse thrust to 80 KIAS, then reverse idle to 60 KIAS, then forward idle to stop. (Includes Air Run Distance)									

CORRECTIONS:

Temperature: Valid from STD -20°C to STD +40°C

FEET PER °C	DRY	WET
BELOW standard day	-10	-14
ABOVE standard day	+23	+34

Slope: Valid from -2% downhill to +2% uphill

FEET PER 1% SLOPE	DRY	WET
UPHILL	-54	-116
DOWNHILL	+168	+380

Wind: Valid from -10 knot tailwind to +20 knot headwind

FEET PER KNOT	DRY	WET
HEADWIND	-25	-41
TAILWIND	+79	+63

SERIES 30

35/EXT ESTIMATED LANDING DISTANCES (FEET)
USE MANUAL SPOILERS

Weight 1000 LB		340	360	380	400	420	440	460	480
S.L.	DRY	3500	3650	3810	3950	4070	4220	4390	4560
	STD=15°C WET	4700	4920	5140	5360	5540	5760	6010	6250
2000 FT	DRY	3680	3840	4010	4160	4300	4460	4640	4820
	STD=11°C WET	4960	5190	5440	5670	5870	6110	6380	6640
4000 FT	DRY	3870	4040	4230	4400	4540	4720	4930	5150
	STD=7°C WET	5250	5500	5770	6020	6240	6500	6810	7120
6000 FT	DRY	4080	4270	4460	4650	4800	4990	5250	5510
	STD=3°C WET	5550	5830	6110	6390	6620	6910	7270	7640
8000 FT	DRY	4300	4500	4710	4930	5140	5370	5650	5930
	STD=-1°C WET	5870	6170	6480	6800	7100	7430	7840	8240
10000 FT	DRY	4540	4760	4990	5250	5500	5780	6090	6400
	STD=-5°C WET	6210	6540	6870	7250	7610	8010	8460	8900

NOTE: Standard day, no wind, zero slope, three engines at maximum reverse thrust to 80 KIAS, then reverse idle to 60 KIAS, then forward idle to stop. (Includes Air Run Distance)

CORRECTIONS:

Temperature: Valid from STD -20°C to STD +40°C

FEET PER °C	DRY	WET
BELOW standard day	-10	-15
ABOVE standard day	+26	+37

Slope: Valid from -2% downhill to +2% uphill

FEET PER 1% SLOPE	DRY	WET
UPHILL	-58	-120
DOWNHILL	+179	+411

Wind: Valid from -10 knot tailwind to +20 knot headwind

FEET PER KNOT	DRY	WET
HEADWIND	-26	-42

TAILWIND	+86	+68
During Go-Around and Missed Approach If go-around is required, initial flight director pitch guidance will provide proper speed and pitch targets, but, under certain 5G interference conditions, the flight director cannot be commanded from the Flight Control Panel (FCP) to provide speed or heading guidance, and may not provide altitude capture guidance. If this guidance is not available, manually comply with missed approach procedures, including altitude constraints.		

(7) For airplanes identified in paragraph (c)(8) of this AD: Revise the Operating Procedures Section of the existing AFM to include the information specified in figure 9 to paragraph (h)(7) of this AD. This may be done by inserting a copy of figure 9 to

paragraph (h)(7) of this AD into the Operating Procedures Section of the existing AFM. An AFM with an Operating Procedures Section that complies with paragraph (l)(4)(i) of AD 2023–12–15 is acceptable for compliance

with the requirements of this paragraph of this AD.

Figure 9 to Paragraph (h)(7)—AFM Operating Procedures Revision for Model MD–11

(As required by AD 2026-13-15)

Radio Altimeter 5G C-Band Interference, Approach, Landing, and Go-Around

ILS Approaches

For ILS approaches other than SA CAT I, SA CAT II, CAT II, and CAT III, disconnect the autopilot prior to glideslope intercept.

Note: Possible erroneous radio altimeter indications may affect autothrottles and flight director guidance; manually intervene if necessary.

Non-Precision Approaches

Non-precision instrument approaches can be conducted using LNAV/VNAV with flight directors, autopilot, and autothrottle to published BARO minimums.

Landing

For landing, the Auto Ground Spoiler function may require manual extension. If manual extension is required, calculate landing distance requirements according to the following tables, as applicable.

50/EXT ESTIMATED LANDING DISTANCES (FEET)
USE MAN SPOILERS

General Electric CF6-80C2 Engines

Weight 1000 LB		360	380	400	420	440	460	480	500
S.L.	DRY	4315	4480	4650	4803	4949	5126	5274	5453
	STD=15°C WET	5156	5388	5604	5805	6008	6240	6443	6677
2000 FT	DRY	4520	4695	4876	5039	5195	5384	5542	5734
	STD=11°C WET	5466	5688	5927	6140	6355	6605	6827	7084
4000 FT	DRY	4738	4925	5118	5292	5459	5661	5830	6036
	STD=7°C WET	5777	6021	6275	6510	6743	7007	7241	7527
6000 FT	DRY	4975	5175	5381	5568	5747	5963	6145	6367
	STD=3°C WET	6125	6392	6658	6917	7166	7449	7710	7999

8000 FT	DRY	5229	5443	5663	5864	6057	6290	6486	6725
STD=-1°C	WET	6497	6787	7084	7354	7628	7939	8212	8538
10000 FT	DRY	5505	5734	5972	6188	6418	6693	6931	7208
STD=-5°C	WET	6920	7220	7544	7842	8155	8532	8853	9223
NOTE: Standard day, no wind, zero slope, three engines at maximum reverse thrust to 80 KIAS, then reverse idle to 60 KIAS, then forward idle to stop (includes air run distances).									

CORRECTIONS:

Temperature: Valid from STD -20°C to STD +40°C

FEET PER °C	DRY	WET
BELOW standard day	-12	-14
ABOVE standard day	+25	+35

Slope: Valid from -2% downhill to +2% uphill

FEET PER 1% SLOPE	DRY	WET
UPHILL	-84	-137
DOWNHILL	+229	+444

Wind: Valid from -10 knot tailwind to +20 knot headwind

FEET PER KNOT	DRY	WET
HEADWIND	-32	-46
TAILWIND	+83	+132

35/EXT ESTIMATED LANDING DISTANCES (FEET)
USE MAN SPOILERS

General Electric CF6-80C2 Engines

Weight 1000 LB		360	380	400	420	440	460	480	500
S.L.	DRY	4632	4803	4974	5155	5340	5496	5685	5855
STD=15°C	WET	5577	5795	6020	6257	6502	6717	6969	7197
2000 FT	DRY	4856	5039	5221	5414	5613	5780	5983	6165
STD=11°C	WET	5890	6131	6373	6631	6893	7128	7394	7642
4000 FT	DRY	5096	5291	5486	5693	5906	6085	6304	6500
STD=7°C	WET	6249	6509	6763	7037	7317	7571	7864	8133
6000 FT	DRY	5357	5566	5775	5998	6227	6420	6655	6867

STD=3°C	WET	6631	6914	7190	7489	7798	8060	8380	8674
8000 FT	DRY	5637	5862	6087	6326	6574	6782	7037	7317
STD=-1°C	WET	7047	7348	7660	7980	8308	8600	8943	9324
10000 FT	DRY	5943	6185	6428	6687	6963	7267	7546	7854
STD=-5°C	WET	7513	7841	8166	8522	8888	9294	9675	10074
NOTE: Standard day, no wind, zero slope, three engines at maximum reverse thrust to 80 KIAS, then reverse idle to 60 KIAS, then forward idle to stop (includes air run distances).									

CORRECTIONS:

Temperature: Valid from STD -20°C to STD +40°C

FEET PER °C	DRY	WET
BELOW standard day	-13	-16
ABOVE standard day	+29	+39

Slope: Valid from -2% downhill to +2% uphill

FEET PER 1% SLOPE	DRY	WET
UPHILL	-94	-155
DOWNHILL	+275	+522

Wind: Valid from -10 knot tailwind to +20 knot headwind

FEET PER KNOT	DRY	WET
HEADWIND	-35	-50
TAILWIND	+95	+143

50/EXT ESTIMATED LANDING DISTANCES (FEET)**USE MAN SPOILERS**

Pratt & Whitney PW-4460/PW-4462 Engines

Weight 1000 LB		360	380	400	420	440	460	480	500
S.L.	DRY	4316	4476	4641	4791	4963	5113	5262	5443
STD=15°C	WET	5050	5269	5498	5710	5922	6157	6371	6626
2000 FT	DRY	4526	4697	4875	5036	5190	5377	5535	5728
STD=11°C	WET	5343	5585	5824	6053	6282	6531	6760	7035

4000 FT	DRY	4751	4935	5125	5297	5463	5663	5832	6038
STD=7°C	WET	5664	5914	6185	6425	6673	6943	7189	7477
6000 FT	DRY	4993	5190	5394	5580	5757	5973	6154	6375
STD=3°C	WET	6003	6284	6566	6826	7094	7392	7651	7969
8000 FT	DRY	5253	5465	5684	5883	6075	6307	6503	6741
STD=-1°C	WET	6382	6677	6983	7266	7550	7869	8158	8494
10000 FT	DRY	5534	5762	5998	6214	6443	6718	6955	7232
STD=-5°C	WET	6783	7107	7440	7749	8076	8457	8797	9182
NOTE: Standard day, no wind, zero slope, three engines at maximum reverse thrust to 60 KIAS, then forward idle to stop (includes air run distances).									

CORRECTIONS:

Temperature: Valid from STD -20°C to STD +40°C

FEET PER °C	DRY	WET
BELOW standard day	-11	-13
ABOVE standard day	+25	+34

Slope: Valid from -2% downhill to +2% uphill

FEET PER 1% SLOPE	DRY	WET
UPHILL	-83	-138
DOWNHILL	+228	+443

Wind: Valid from -10 knot tailwind to +20 knot headwind

FEET PER KNOT	DRY	WET
HEADWIND	-33	-45
TAILWIND	+83	+128

35/EXT ESTIMATED LANDING DISTANCES (FEET) USE MAN SPOILERS

Pratt & Whitney PW-4460/PW-4462 Engines

Weight 1000 LB		360	380	400	420	440	460	480	500
S.L.	DRY	4622	4790	4958	5138	5326	5484	5677	5850
	STD=15°C WET	5422	5661	5902	6154	6422	6647	6923	7169
2000 FT	DRY	4856	5035	5215	5406	5605	5773	5979	6165
	STD=11°C WET	5755	6005	6265	6533	6812	7062	7353	7626
4000 FT	DRY	5105	5298	5491	5696	5908	6087	6307	6506
	STD=7°C WET	6102	6386	6659	6950	7251	7511	7825	8121
6000 FT	DRY	5373	5581	5788	6009	6238	6430	6665	6879
	STD=3°C WET	6493	6787	7084	7397	7724	8013	8345	8656
8000 FT	DRY	5662	5885	6109	6347	6594	6802	7056	7285
	STD=-1°C WET	6907	7220	7543	7887	8236	8548	8916	9254
10000 FT	DRY	5975	6216	6458	6716	6992	7296	7575	7882
	STD=-5°C WET	7353	7703	8047	8423	8815	9243	9646	10082

NOTE: Standard day, no wind, zero slope, three engines at maximum reverse thrust to 60 KIAS, then forward idle to stop (includes air run distances).

CORRECTIONS:

Temperature: Valid from STD -20°C to STD +40°C

FEET PER °C	DRY	WET
BELOW standard day	-11	-15
ABOVE standard day	+28	+39

Slope: Valid from -2% downhill to +2% uphill

FEET PER 1% SLOPE	DRY	WET
UPHILL	-93	-151
DOWNHILL	+273	+524

Wind: Valid from -10 knot tailwind to +20 knot headwind

FEET PER KNOT	DRY	WET
HEADWIND	-35	-48

TAILWIND	+94	+140

During Go-Around and Missed Approach

If go-around is required, initial flight director pitch guidance will provide proper speed and pitch targets, but, under certain 5G interference conditions, the flight director cannot be commanded from the Flight Control Panel (FCP) to provide speed or heading guidance, and may not provide altitude capture guidance. If this guidance is not available, manually comply with missed approach procedures, including altitude constraints.

(8) For airplanes identified in paragraph (c)(9) of this AD: Revise the Operating Procedures Section of the existing AFM to include the information specified in figure 10 to paragraph (h)(8) of this AD. This may be done by inserting a copy of figure 10 to paragraph (h)(8) of this AD into the Operating

Procedures Section of the existing AFM. An AFM with an Operating Procedures Section that complies with paragraph (l)(5)(i) of AD 2023–12–15 is acceptable for compliance with the requirements of this paragraph of this AD.

Figure 10 to Paragraph (h)(8)—AFM Operating Procedures Revision for Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), MD–88, and MD–90–30

(As required by AD 2026-13-15)

Radio Altimeter 5G C-Band Interference, Approaches

ILS Approaches

For ILS approaches other than SA CAT I, SA CAT II, CAT II, and CAT III, disconnect the autopilot and autothrottles, and place both flight director switches to OFF prior to glideslope intercept.

Note: Possible erroneous radio altimeter indications may affect autopilot, autothrottles, and flight director guidance; manually intervene if necessary.

Non-Precision Approaches

Non-precision instrument approaches can be conducted using LNAV/VNAV with flight directors, autopilot, and autothrottle to published BARO minimums.

(i) Terminating Action for AFM Revision

(1) Modifying the airplane from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane terminates the limitations in paragraphs (h)(1) through (3) of this AD and the operating procedures in paragraphs (h)(4) through (8) of this AD for that airplane.

(2) After modifying the airplane to a radio altimeter tolerant airplane, the limitations specified by paragraphs (h)(1) through (3) of this AD and the operating procedures in paragraphs (h)(4) through (8) of this AD may be removed from the AFM.

(j) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector,

or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) The following AMOCs approved previously for AD 2023–12–15, Amendment 39–22473 (88 FR 40023, June 21, 2023) are approved as AMOCs for paragraph (g)(1) of this AD: FAA AMOC letters 720–23–00137, 720–23–00138, 720–23–00169, 722–23–00073, and 722–23–00076.

(k) Additional Information

For more information about this AD, contact Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5390; email: operationalafety@faa.gov.

(I) Material Incorporated by Reference

None.

Issued on June 25, 2026.

Brian Knaup,

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

[FR Doc. 2026–13205 Filed 6–26–26; 4:15 pm]

BILLING CODE 4910–13–C

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

[Docket No. FAA–2026–7207; Project Identifier AD–2026–00556–T; Amendment 39–23399; AD 2026–13–16]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 757 airplanes and Model 767 airplanes. This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7–3.98 GHz frequency band (5G Lower C-Band) while operating in Canadian airspace, and a determination that, during approach, landings, and go-arounds, as a result of this interference, certain airplane systems may not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged, which could result in reduced ability of the flightcrew to maintain safe flight and landing of the airplane. This AD requires revising the existing airplane flight manual (AFM) to incorporate limitations prohibiting certain operations requiring radio altimeter data when operating in Canadian airspace. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 1, 2026.

The FAA must receive comments on this AD by August 14, 2026.

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

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.

- *Fax:* 202–493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2026–7207; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5390; email: *operationalsafety@faa.gov*.

SUPPLEMENTARY INFORMATION:**Comments Invited**

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include Docket No. FAA–2026–7207 and Project Identifier AD–2026–00556–T at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD,

it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5390; email: *operationalsafety@faa.gov*. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2021–23–12, Amendment 39–21810 (86 FR 69984, December 9, 2021) (AD 2021–23–12), for all transport and commuter category airplanes equipped with a radio altimeter. AD 2021–23–12 was prompted by a determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 5G Lower C-Band, which is close to the frequency bands used by radio altimeters (4.2–4.4 GHz). AD 2021–23–12 required revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations requiring radio altimeter data when in the presence of 5G Lower C-Band interference as identified by Notices to Air Missions (NOTAMs). The agency issued AD 2021–23–12 because radio altimeter anomalies that are undetected by the automation or pilot, particularly close to the ground (*e.g.*, landing flare), could lead to loss of continued safe flight and landing.

The FAA subsequently identified an additional hazard presented by 5G Lower C-Band interference on Boeing Model 757 and Model 767 airplanes and issued AD 2022–04–05, Amendment 39–21947 (87 FR 8152, February 14, 2022) (AD 2022–04–05). AD 2022–04–05 was prompted by the unsafe condition in AD 2021–23–12, as well as a determination that, during approach, landings, and go-arounds, as a result of interference from the 5G Lower C-Band, certain airplane systems may not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged, which could result in reduced ability of the flightcrew to maintain safe flight and landing of the airplane. AD 2022–04–05 required revising the limitations section of the existing AFM to incorporate limitations requiring specific operating procedures

for landing distance calculations, instrument landing system (ILS) approaches, non-precision approaches, speedbrake deployment, and go-around and missed approaches for dispatch or release to airports, and approach, landing, and go-around on runways, when in the presence of 5G Lower C-Band interference as identified by NOTAMs.

After the FAA issued AD 2021–23–12 and AD 2022–04–05, the agency determined that additional limitations were needed due to the continued deployment of new 5G Lower C-Band base stations whose signals were expected to cover most of the contiguous U.S., as well as the determination that radio altimeter anomalies could lead to increased flightcrew workload and flightcrew desensitization to warnings. Therefore, the FAA issued AD 2023–10–02, Amendment 39–22438 (88 FR 34065, May 26, 2023) (AD 2023–10–02), to supersede AD 2021–23–12, and the FAA issued AD 2023–12–12, Amendment 39–22470, (88 FR 40058, June 21, 2023) (AD 2023–12–12), to supersede AD 2022–04–05.

Currently, AD 2023–12–12 requires revising the limitations section of the existing AFM to incorporate limitations requiring specific operating procedures for dispatch or release to airports, and approach, landing, and go-around on runways at all airports in the entire contiguous U.S. airspace instead of only in areas identified by NOTAM; however, AD 2023–12–12 permits radio altimeter tolerant airplanes to perform these operations at 5G Lower C-Band mitigated airports as identified in an FAA Domestic Notice.

Actions Since AD 2023–12–12 Was Issued

Since the FAA issued AD 2023–12–12, Transport Canada, which is the aviation authority for Canada, issued AD CF–2024–14, dated May 15, 2024 (Transport Canada AD CF–2024–14), to correct an unsafe condition for all transport and commuter category airplanes with a radio altimeter. Transport Canada AD CF–2024–14 states that in July 2023, Innovation, Science and Economic Development Canada (ISED), Canada's spectrum regulator, published Standard Radio System Plans (SRSP)–520 Issue 3¹ and Radio Standard Specifications (RSS)–

192 Issue 5,² which define the spectrum environment for the 3.45–3.90 GHz frequency band in Canada. Transport Canada AD CF–2024–14 further states that spectrum auctions for the 3.45–3.65 GHz and the 3.65–3.9 GHz band were completed in 2021 and 2023, respectively.

In July 2023, ISED implemented measures to mitigate Lower C-Band interference to radio altimeters, which provide the Canadian airspace greater protection from 5G Lower C-Band interference to radio altimeters as compared to the Lower C-Band environment in the contiguous U.S. airspace. These measures include exclusion and protection zones and airport effective isotropic radiated power (EIRP) elevation mask (a restriction that requires nearby cell tower signals to be angled downward so they do not interfere with aircraft altimeters) at certain airport runways covering the majority of air traffic in Canada, as well as nationwide reduced fundamental power emissions based on the degree of antenna uptilt above the horizon to minimize emissions from 5G base stations toward aircraft.

In late March 2026, Transport Canada notified the FAA that, beginning July 1, 2026, changes in the 5G Lower C-Band protection mitigations established by ISED in 2023 would result in a more severe 5G interference environment in the Canadian airspace. Exclusion and protection zones at airports will no longer exist and updates to the airport EIRP elevation mask, nationwide tilt restriction, emitter height limitation and reduced spurious emissions will only protect airplanes that are radio altimeter tolerant. The change in mitigations will result in an unsafe condition in the Canadian 5G interference environment.

Transport Canada determined that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.45–3.98 GHz frequency band. Transport Canada based its determination on the same unsafe condition found by the FAA in AD 2023–10–02. As a result, Transport Canada AD CF–2024–14 requires revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations requiring radio altimeter data, due to the presence of 5G Lower C-Band interference, while operating in Canadian airspace. As

terminating action for the operating limitations, Transport Canada AD CF–2024–14 provides that operators may upgrade their radio altimeters to demonstrate the tolerances for emissions as specified in Transport Canada AD CF–2024–14.

Boeing subsequently conducted an analysis of the expected changes in the 5G Lower C-Band environment in Canada and the effects of interference with radio altimeters with respect to the Boeing fleet. In May 2026, Boeing reported that certain airplane configurations will not demonstrate tolerance to radio altimeter interference in the new 5G environment in Canada. Therefore, based on this information, the FAA determined that the unsafe condition identified in AD 2023–12–12 exists for Model 757 and Model 767 airplanes when operating in the Canadian airspace. As a result, operating limitations similar to the limitations required by AD 2023–12–12 are necessary.

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

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

For non-radio altimeter tolerant airplanes, this AD requires, before further flight in Canadian airspace, revising the existing AFM to incorporate limitations for dispatch or release to airports, and approach, landing, and go-around on runways when operating in Canadian airspace. This AD provides that modifying the airplane from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane terminates the AFM operating limitations for that airplane.

While AD 2023–12–12 also specifies limitations for dispatch or release to airports, and approach, landing, and go-around on runways for radio altimeter tolerant airplanes except at 5G Lower C-Band mitigated airports, this AD has no limitations for radio altimeter tolerant airplanes. The interference environment at Canadian airports after July 1, 2026, will be mitigated enough such that those limitations are not necessary for radio altimeter tolerant airplanes. The FAA also notes that most Model 757 and Model 767 radio altimeter tolerant airplanes are not subject to the limitations in AD 2023–12–12 under the provisions of an FAA-approved AMOC.

An airplane that is a radio altimeter tolerant airplane using a method

¹ <https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/standard-radio-system-plans/srsp-520-technical-requirements-fixed-and-or-mobile-systems-including-flexible-use-broadband-systems>.

² <https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/radio-equipment-standards/radio-standards-specifications-rss/rss-192-flexible-use-broadband-equipment-operating-band-3450-3900-mhz>.

approved by the FAA for AD 2023–12–12 is also a radio altimeter tolerant airplane for the purposes of paragraph (g)(1) of this AD. Alternative methods of compliance (AMOC) listed in paragraph (j)(3) of this AD are approved for this AD.

Differences From Transport Canada AD CF–2024–14

Transport Canada AD CF–2024–14 specifies the fundamental emissions are in the 3.45–3.98 GHz frequency band, while this AD specifies the 3.7–3.98 GHz frequency band. AD 2023–10–02 and AD 2023–12–12 identified an unsafe condition from wireless broadband transmissions in the 3.7–3.98 GHz frequency band, and this AD is based on that same determination. In addition, an airplane determined to be a radio altimeter tolerant airplane for the purposes of AD 2023–12–12, which has demonstrated the performance tolerances for fundamental emissions within the 3.7–3.98 GHz frequency band, would also be a radio altimeter tolerant airplane for purposes of this AD. Frequencies less than 3.7 GHz are further away from the frequency bands used by radio altimeters (4.2 to 4.4 GHz), so an airplane determined to be tolerant in the range of 3.7–3.98 GHz is also tolerant to emissions less than 3.7 GHz.

Interim Action

The FAA considers this AD to be an interim action. The FAA may consider further rulemaking if the Canadian 5G C-Band interference environment changes or if Canada issues an

operational rule to address 5G C-Band interference with radio altimeters.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 5G Lower C-Band. This interference can cause other airplane systems to not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged, which could result in reduced ability of the flightcrew to maintain safe flight and landing of the airplane. The urgency is based on a change in the 5G Lower C-Band

environment in Canada, which is scheduled to occur on July 1, 2026. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA notes that since operators must comply with this AD before further flight in Canadian airspace, airplanes that do not operate in Canada will not have to comply and therefore will have no costs under this AD.

The FAA estimates that this AD affects 1,084 airplanes of U.S. registry. The FAA expects that many of the affected airplanes have upgraded radio altimeters; therefore, the FAA estimates the total number of airplanes affected by this AD to be less than the total fleet size provided in this AD. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
AFM revision for non-RAT airplanes	1 work-hour × \$85 per hour = \$85	\$0	\$85	Up to \$92,140.

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Action	Labor cost	Parts cost	Cost per product
Modification (radio altimeter replacement option).	.....	.....	Up to \$120,000 (includes parts and labor).
Modification (filter addition option)	24 work-hours × \$85 per hour = \$2,040 per filter.	\$12,000 per filter ...	Up to \$14,040 (includes parts and labor).

Authority for This Rulemaking

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

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

necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–13–16 The Boeing Company:
Amendment 39–23399; Docket No. FAA–2026–7207; Project Identifier AD–2026–00556–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 1, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company airplanes identified in paragraphs (c)(1) and (2) of this AD, certificated in any category.

(1) Model 757–200, –200PF, –200CB, and –300 series airplanes.

(2) Model 767–200, –300, –300F, –400ER, and –2C series airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7–3.98 GHz frequency band (5G Lower C-Band) when operating in Canadian airspace, and a determination that, during approach,

landings, and go-arounds, as a result of this interference, certain airplane systems may not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged. The FAA is issuing this AD to address 5G Lower C-Band interference that could result in increased flightcrew workload and could lead to reduced ability of the flightcrew to maintain safe flight and landing of the airplane.

(f) Compliance

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

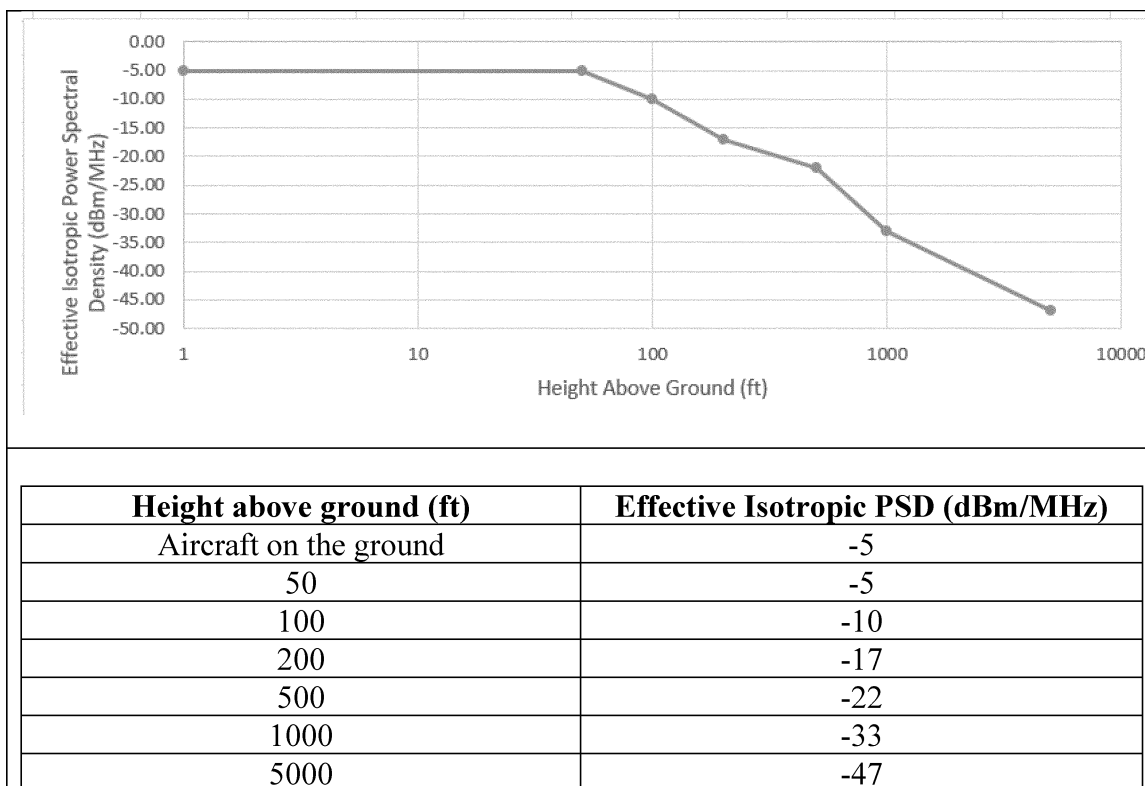
(g) Definitions

(1) For purposes of this AD, a “radio altimeter tolerant airplane” is one for which the radio altimeter, as installed, demonstrates the tolerances specified in paragraphs (g)(1)(i) and (ii) of this AD, using a method approved by the FAA. No actions are required by this AD for radio altimeter tolerant airplanes.

(i) Tolerance to radio altimeter interference, for the fundamental emissions (3.7–3.98 GHz), at or above the power spectral density (PSD) curve threshold specified in figure 1 to paragraph (g)(1)(i) of this AD.

**Figure 1 to Paragraph (g)(1)(i)—
Fundamental Effective Isotropic PSD at
Outside Interface of Aircraft Antenna**

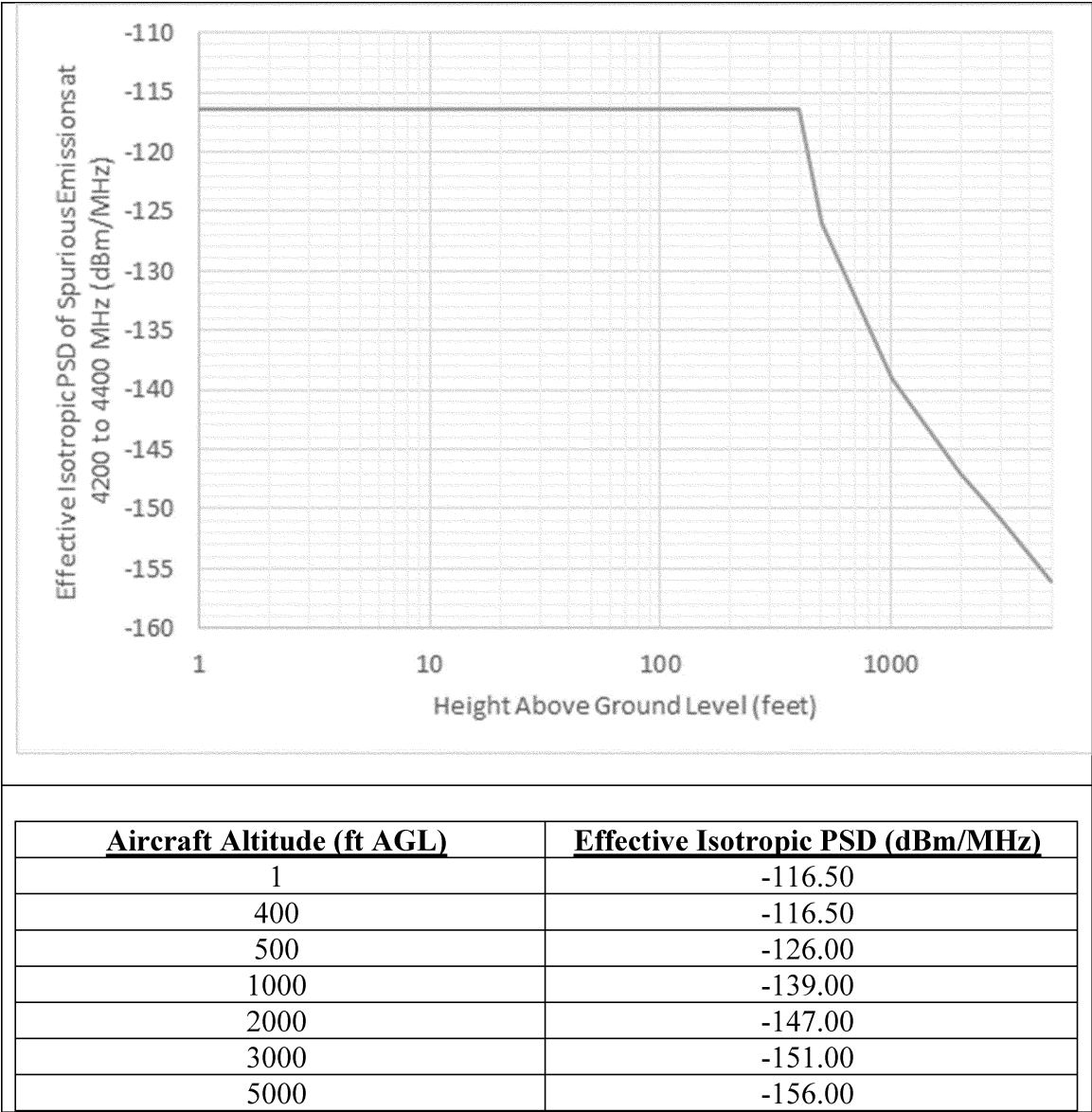
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(ii) Tolerance to radio altimeter interference, for the spurious emissions (4.2–4.4 GHz), at or above the PSD curve threshold

specified in figure 2 to paragraph (g)(1)(ii) of this AD.

Figure 2 to Paragraph (g)(1)(ii)—Spurious Effective Isotropic PSD at Outside Interface of Aircraft Antenna



(2) For purposes of this AD, a “non-radio altimeter tolerant airplane” is one for which the radio altimeter, as installed, does not demonstrate the tolerances specified in paragraphs (g)(1)(i) and (ii) of this AD.

(h) Airplane Flight Manual (AFM) Revision

For non-radio altimeter tolerant airplanes: Before further flight in Canadian airspace, do the actions specified in paragraphs (h)(1) and (2) of this AD.

(1) Revise the Limitations Section of the existing AFM to include the information specified in figure 3 to paragraph (h)(1) of

this AD. This may be done by inserting a copy of figure 3 to paragraph (h)(1) of this AD into the existing AFM.

Figure 3 to Paragraph (h)(1)—AFM Limitations Revision for Non-Radio Altimeter Tolerant Airplanes in Canadian Airspace

(As required by AD 2026-13-16)

Radio Altimeter 5G Lower C-Band Interference, Approach, Landing, and Go-Around (Canadian Airspace)

Due to the presence of 5G Lower C-Band wireless broadband interference, the following limitations are required for dispatch or release to airports, and approach, landing, and go-around on runways, in Canadian airspace.

Approach, Landing, and Go-Around

Operators must use the Radio Altimeter 5G C-Band Interference, Approach, Landing, and Go-Around procedure contained in the Operating Procedures Section of this AFM.

(2) Revise the Operating Procedures Section of the existing AFM to include the information specified in figure 4 to paragraph (h)(2) of this AD. This may be done by inserting a copy of figure 4 to paragraph

(h)(2) of this AD into the existing AFM. An AFM with an Operating Procedures Section that complies with paragraph (k) of AD 2023–12–12, Amendment 39–22470 (88 FR 40058, June 21, 2023) is acceptable for compliance

with the requirements of this paragraph of this AD.

Figure 4 to Paragraph (h)(2)—AFM Operating Procedures Revision

(As required by AD 2026-13-16)

Radio Altimeter 5G C-Band Interference, Approach, Landing, and Go-Around**Landing Distance Calculations**

For airplanes with Yaw Damper Stabilizer Trim module (YSM), adjust the operational (time of arrival) landing distance for manual speedbrake deployment if MAX MANUAL braking is required. When using autobrakes, no correction is needed since the calculations already take into account that manual speedbrake deployment may be needed.

ILS Approaches

For ILS approaches other than SA CAT I, SA CAT II, CAT II, and CAT III, disconnect the autopilot and autothrottle, and place both flight director switches to OFF prior to glideslope intercept.

Non-Precision Approaches

Non-precision instrument approaches can be conducted using VNAV or V/S with flight directors, autopilot, and autothrottle to published minimums.

During Landing

For airplanes with Yaw Damper Stabilizer Trim module (YSM), if MAX MANUAL braking is required, manually deploy the speedbrake if it does not deploy automatically.

During Go-Around and Missed Approach

If the flight director is ON, cycle to OFF, then ON, as needed.

If the flight director is OFF, turn ON, as needed.

BILLING CODE 4910-13-C**(i) Terminating Action for AFM Revision**

(1) Modifying the airplane from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane terminates the limitations in paragraph (h)(1) of this AD and the operating procedures in paragraph (h)(2) of this AD for that airplane.

(2) After modifying the airplane to a radio altimeter tolerant airplane, the limitations in paragraph (h)(1) of this AD and the operating procedures in paragraph (h)(2) of this AD may be removed from the AFM.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR-520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of AIR-520, Continued Operational Safety Branch, send it to the attention of the person identified in

paragraph (k) of this AD and email to: AMOC@faa.gov.

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

(3) The following AMOCs approved previously for AD 2023-12-12, Amendment 39-22470, (88 FR 40058, June 21, 2023) are approved as AMOCs for paragraph (g)(1) of this AD: FAA AMOC letters 720-23-00137, 720-23-00138, 720-23-00169, 720-23-00191, 720-23-00192, and 720-24-00012.

(k) Additional Information

For more information about this AD, contact Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817-222-5390; email: operationalafety@faa.gov.

(l) Material Incorporated by Reference

None.

Issued on June 25, 2026.

Brian Knaup,

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

[FR Doc. 2026-13218 Filed 6-26-26; 4:15 pm]

BILLING CODE 4910-13-P

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

[Docket No. FAA-2026-7205; Project Identifier AD-2026-00549-T; Amendment 39-23397; AD 2026-13-14]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, and –400F series airplanes. This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7–3.98 GHz frequency band (5G Lower C-Band) while operating in Canadian airspace, and a determination that during takeoff, approach, landings, and go-arounds, as a result of this interference, certain airplane systems may not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged, which could result in reduced ability of the flightcrew to maintain safe flight and landing of the airplane. This AD requires revising the existing airplane flight manual (AFM) to incorporate limitations prohibiting certain operations requiring radio altimeter data when operating in Canadian airspace. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 1, 2026.

The FAA must receive comments on this AD by August 14, 2026.

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

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.

- *Fax:* 202–493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2026–7205; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198;

phone: 817–222–5390; email: *operationalsafety@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include Docket No. FAA–2026–7205 and Project Identifier AD–2026–00549–T at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5390; email: *operationalsafety@faa.gov*. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2021–23–12, Amendment 39–21810 (86 FR 69984, December 9, 2021) (AD 2021–23–12), for all transport and commuter category airplanes equipped with a radio altimeter. AD 2021–23–12 was

prompted by a determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 5G Lower C-Band, which is close to the frequency bands used by radio altimeters (4.2–4.4 GHz). AD 2021–23–12 required revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations requiring radio altimeter data when in the presence of 5G Lower C-Band interference as identified by Notices to Air Missions (NOTAMs). The agency issued AD 2021–23–12 because radio altimeter anomalies that are undetected by the automation or pilot, particularly close to the ground (*e.g.*, landing flare), could lead to loss of continued safe flight and landing.

The FAA subsequently identified an additional hazard presented by 5G Lower C-Band interference on Boeing Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, and –400F series airplanes and issued AD 2022–06–16, Amendment 39–21982 (87 FR 14780, March 16, 2022) (AD 2022–06–16). AD 2022–06–16 was prompted by the unsafe condition in AD 2021–23–12, as well as a determination that, during takeoff, approach, landings, and go-arounds, as a result of interference from the 5G Lower C-Band, certain airplane systems may not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged, which could result in reduced ability of the flightcrew to maintain safe flight and landing of the airplane. AD 2022–06–16 required revising the limitations and operating procedures sections of the existing AFM to incorporate specific operating procedures for takeoff, instrument landing system (ILS) approaches, non-precision approaches, and go-around and missed approaches, when in the presence of 5G Lower C-Band interference as identified by NOTAMs.

After the FAA issued AD 2021–23–12 and AD 2022–06–16, the agency determined that additional limitations were needed due to the continued deployment of new 5G Lower C-Band base stations whose signals were expected to cover most of the contiguous U.S., as well as the determination that radio altimeter anomalies could lead to increased flightcrew workload and flightcrew desensitization to warnings. Therefore, the FAA issued AD 2023–10–02, Amendment 39–22438 (88 FR 34065, May 26, 2023) (AD 2023–10–02), to supersede AD 2021–23–12, and the FAA

issued AD 2023–12–14, Amendment 39–22472 (88 FR 40003, June 21, 2023) (AD 2023–12–14), to supersede AD 2022–06–16.

Currently, AD 2023–12–14 requires revising the limitations section of the existing AFM to incorporate limitations for dispatch or release to airports, and takeoff, approach, landing, and go-around on runways at all airports in the entire contiguous U.S. airspace instead of only in areas identified by NOTAM; however, AD 2023–12–14 permits radio altimeter tolerant airplanes to perform these operations at 5G Lower C-Band mitigated airports as identified in an FAA Domestic Notice.

Actions Since AD 2023–12–14 Was Issued

Since the FAA issued AD 2023–12–14, Transport Canada, which is the aviation authority for Canada, issued AD CF–2024–14, dated May 15, 2024 (Transport Canada AD CF–2024–14), to correct an unsafe condition for all transport and commuter category airplanes with a radio altimeter. Transport Canada AD CF–2024–14 states that in July 2023, Innovation, Science and Economic Development Canada (ISED), Canada's spectrum regulator, published Standard Radio System Plans (SRSP)-520 Issue 3¹ and Radio Standard Specifications (RSS)-192 Issue 5,² which define the spectrum environment for the 3.45–3.90 GHz frequency band in Canada. Transport Canada AD CF–2024–14 further states that spectrum auctions for the 3.45–3.65 GHz and the 3.65–3.9 GHz band were completed in 2021 and 2023, respectively.

In July 2023, ISED implemented measures to mitigate Lower C-Band interference to radio altimeters, which provide the Canadian airspace greater protection from 5G Lower C-Band interference to radio altimeters as compared to the Lower C-Band environment in the contiguous U.S. airspace. These measures include exclusion and protection zones and airport effective isotropic radiated power (EIRP) elevation mask (a restriction that requires nearby cell tower signals to be angled downward so they do not interfere with aircraft altimeters) at certain airport runways

covering the majority of air traffic in Canada, as well as nationwide reduced fundamental power emissions based on the degree of antenna uptilt above the horizon to minimize emissions from 5G base stations toward aircraft.

In late March 2026, Transport Canada notified the FAA that, beginning July 1, 2026, changes in the 5G Lower C-band protection mitigations established by ISED in 2023 would result in a more severe 5G interference environment in the Canadian airspace. Exclusion and protection zones at airports will no longer exist and updates to the airport EIRP elevation mask, nationwide tilt restriction, emitter height limitation and reduced spurious emissions will only protect airplanes that are radio altimeter tolerant. The change in mitigations will result in an unsafe condition in the Canadian 5G interference environment.

Transport Canada determined that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.45–3.98 GHz frequency band. Transport Canada based its determination on the same unsafe condition found by the FAA in AD 2023–10–02. As a result, Transport Canada AD CF–2024–14 requires revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations requiring radio altimeter data, due to the presence of 5G Lower C-Band interference, while operating in Canadian airspace. As terminating action for the operating limitations, Transport Canada AD CF–2024–14 provides that operators may upgrade their radio altimeters to demonstrate the tolerances for emissions as specified in Transport Canada AD CF–2024–14.

Boeing subsequently conducted an analysis of the expected changes in the 5G Lower C-Band environment in Canada and the effects of interference with radio altimeters with respect to the Boeing fleet. In May 2026, Boeing reported that certain airplane configurations will not demonstrate tolerance to radio altimeter interference in the new 5G environment in Canada. Therefore, based on this information, the FAA determined that the unsafe condition identified in AD 2023–12–14 exists for Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, and –400F series airplanes when operating in the Canadian airspace. As a result, operating limitations similar to the limitations required by AD 2023–12–14 are necessary.

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

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

For non-radio altimeter tolerant airplanes, this AD requires, before further flight in Canadian airspace, revising the existing AFM to incorporate limitations for dispatch or release to airports, and takeoff, approach, landing, and go-around on runways when operating in Canadian airspace. This AD provides that modifying the airplane from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane terminates the AFM operating limitations for that airplane.

While AD 2023–12–14 also specifies limitations for dispatch or release to airports and takeoff, approach, landing, and go-around on runways for radio altimeter tolerant airplanes except at 5G Lower C-Band mitigated airports, this AD has no limitations for radio altimeter tolerant airplanes. The interference environment at Canadian airports after July 1, 2026, will be mitigated enough such that those limitations are not necessary for radio altimeter tolerant airplanes. The FAA also notes that most Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, and –400F series radio altimeter tolerant airplanes are not subject to the limitations in AD 2023–12–14 under the provisions of an FAA-approved AMOC.

An airplane that is a radio altimeter tolerant airplane using a method approved by the FAA for AD 2023–12–14 is also a radio altimeter tolerant airplane for the purposes of paragraph (g)(1) of this AD. Alternative methods of compliance (AMOC) listed in paragraph (j)(3) of this AD are approved for this AD.

Differences From Transport Canada AD CF–2024–14

Transport Canada AD CF–2024–14 specifies the fundamental emissions are in the 3.45–3.98 GHz frequency band, while this AD specifies the 3.7–3.98 GHz frequency band. AD 2023–10–02 and AD 2023–12–14 identified an unsafe condition from wireless broadband transmissions in the 3.7–3.98 GHz frequency band, and this AD is based on that same determination. In addition, an airplane determined to be a radio altimeter tolerant airplane for the purposes of AD 2023–12–14, which has demonstrated the performance tolerances for fundamental emissions within the 3.7–3.98 GHz frequency

¹ <https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/standard-radio-system-plans/srsp-520-technical-requirements-fixed-and-or-mobile-systems-including-flexible-use-broadband-systems>.

² <https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/devices-and-equipment/radio-equipment-standards/radio-standards-specifications-rss/rss-192-flexible-use-broadband-equipment-operating-band-3450-3900-mhz>.

band, would also be a radio altimeter tolerant airplane for purposes of this AD. Frequencies less than 3.7 GHz are further away from the frequency bands used by radio altimeters (4.2–4.4 GHz), so an airplane determined to be tolerant in the range of 3.7–3.98 GHz is also tolerant to emissions less than 3.7 GHz.

Interim Action

The FAA considers this AD to be an interim action. The FAA may consider further rulemaking if the Canadian 5G C-Band interference environment changes or if Canada issues an operational rule to address 5G C-Band interference with radio altimeters.

Justification for Immediate Adoption and Determination of the Effective Date

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

553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 5G Lower C-Band. This interference can cause other airplane systems to not properly function, resulting in increased flightcrew workload, which could lead to reduced ability of the flightcrew to maintain safe flight and landing of the airplane. The urgency is based on a change in the 5G Lower C-band environment in Canada, which is scheduled to occur on July 1, 2026. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

the FAA found good cause to forgo notice and comment.

Regulatory Flexibility Act

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

Costs of Compliance

The FAA notes that since operators must comply with this AD before further flight in Canadian airspace, airplanes that do not operate in Canada will not have to comply and therefore will have no costs under this AD.

The FAA estimates that this AD affects 114 airplanes of U.S. registry. The FAA expects that many of the affected airplanes have upgraded radio altimeters; therefore, the FAA estimates the total number of airplanes affected by this AD to be less than the total fleet size provided in this AD. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
AFM revision for non-RAT airplanes.	1 work-hour × \$85 per hour = \$85	\$0	\$85	Up to \$9,690.

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Action	Labor cost	Parts cost	Cost per product
Modification (radio altimeter replacement option).	.....	.....	Up to \$120,000 (includes parts and labor).
Modification (filter addition option)	24 work-hours × \$85 per hour = \$2,040 per filter.	\$12,000 per filter	Up to \$14,040 (includes parts and labor).

Authority for This Rulemaking

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

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

necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–13–14 The Boeing Company:
Amendment 39–23397; Docket No.
FAA–2026–7205; Project Identifier AD–
2026–00549–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 1, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 747–100, –100B, –100B

SUD, –200B, –200C, –200F, –300, –400, –400D, and –400F series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7–3.98 GHz frequency band (5G Lower C-Band) when operating in Canadian airspace, and the determination that during takeoff, approach, landings, and go-arounds, as a result of this interference, certain airplane systems may not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged. The FAA is issuing this AD to address 5G Lower C-Band

interference that could result in increased flightcrew workload and could lead to reduced ability of the flightcrew to maintain safe flight and landing of the airplane.

(f) Compliance

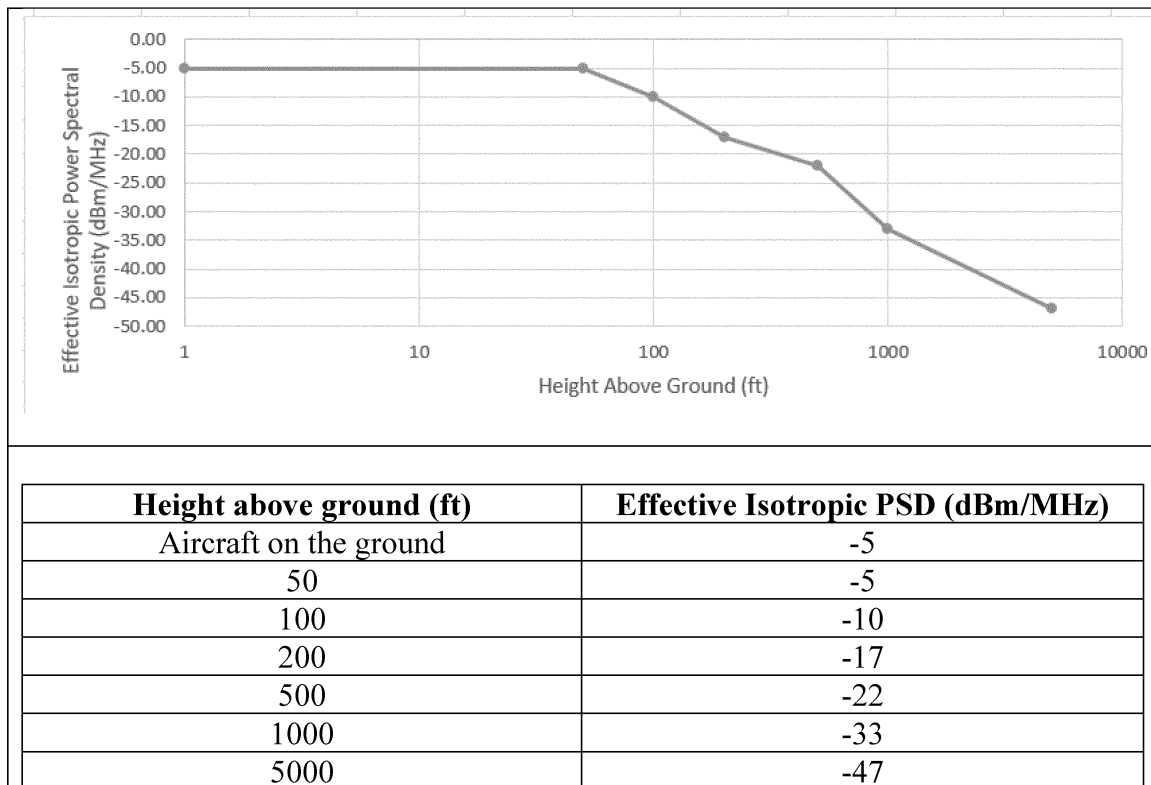
Comply with this AD within the compliance times specified, unless already done.

(g) Definitions

(1) For purposes of this AD, a “radio altimeter tolerant airplane” is one for which the radio altimeter, as installed, demonstrates the tolerances specified in paragraphs (g)(1)(i) and (ii) of this AD, using a method approved by the FAA. No actions are required by this AD for radio altimeter tolerant airplanes.

(i) Tolerance to radio altimeter interference, for the fundamental emissions (3.7–3.98 GHz), at or above the power spectral density (PSD) curve threshold specified in figure 1 to paragraph (g)(1)(i) of this AD.

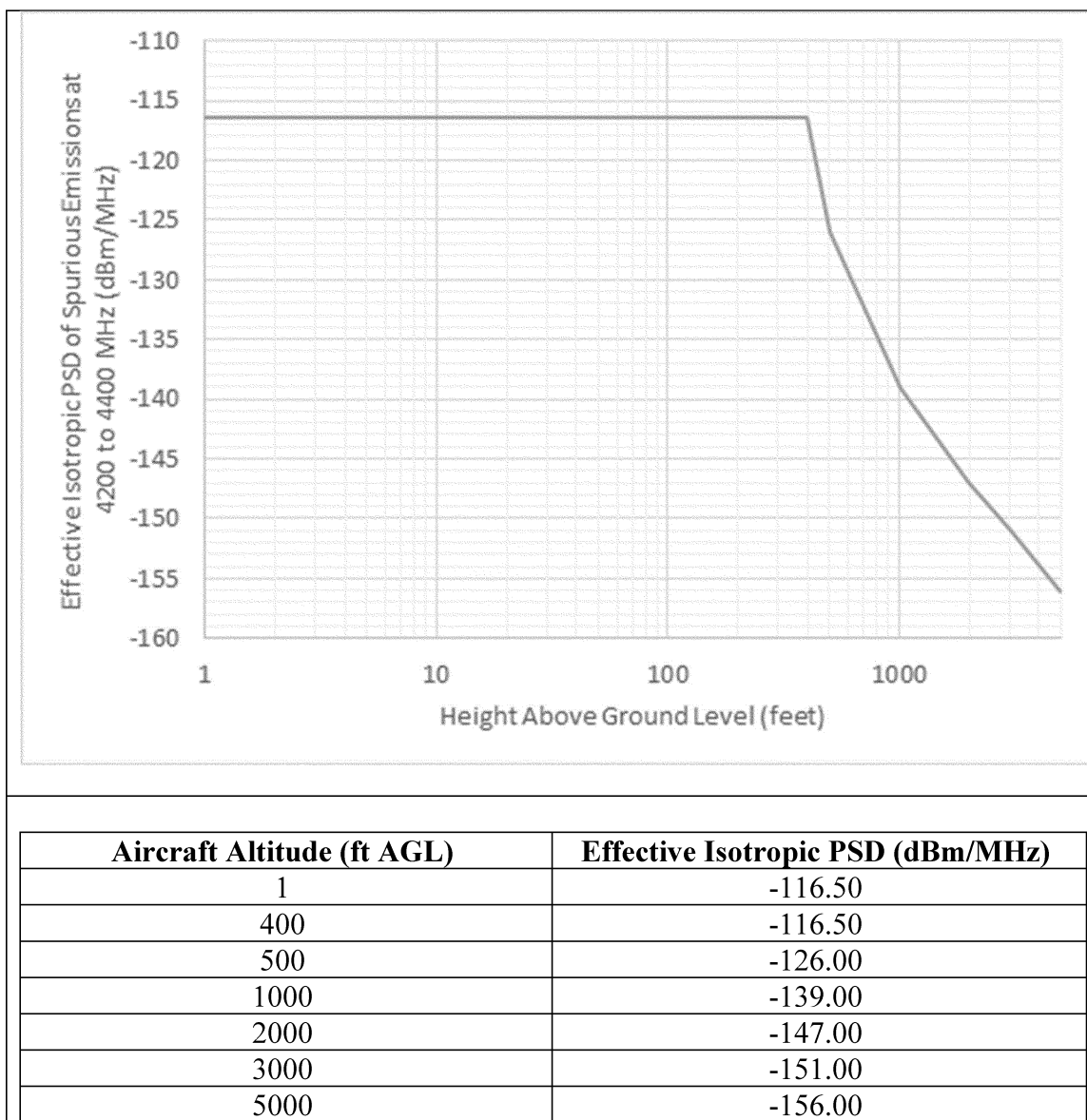
**Figure 1 to paragraph (g)(1)(i) - Fundamental Effective Isotropic PSD at
Outside Interface of Aircraft Antenna**



(ii) Tolerance to radio altimeter interference, for the spurious emissions (4.2–4.4 GHz), at or above the PSD curve

threshold specified in figure 2 to paragraph (g)(1)(ii) of this AD.

Figure 2 to paragraph (g)(1)(ii) - Spurious Effective Isotropic PSD at Outside Interface of Aircraft Antenna



(2) For purposes of this AD, a “non-radio altimeter tolerant airplane” is one for which the radio altimeter, as installed, does not demonstrate the tolerances specified in paragraphs (g)(1)(i) and (ii) of this AD.

(h) Airplane Flight Manual (AFM) Revision

For non-radio altimeter tolerant airplanes: Before further flight in Canadian airspace, do the actions specified in paragraphs (h)(1) and (2) of this AD.

(1) Revise the Limitations Section of the existing AFM to include the information specified in figure 3 to paragraph (h)(1) of this AD. This may be done by inserting a copy of figure 3 to paragraph (h)(1) of this AD into the existing AFM.

Figure 3 to paragraph (h)(1) – AFM Limitations for Non-Radio Altimeter Tolerant Airplanes in Canadian Airspace

(As required by AD 2026-13-14)

Radio Altimeter 5G Lower C-Band Interference, Takeoff, Approach, Landing, and Go-Around (Canadian Airspace)

Due to the presence of 5G Lower C-Band wireless broadband interference, the following limitations are required for dispatch or release to airports, and takeoff, approach, landing, and go-around on runways, in Canadian airspace.

Takeoff, Approach, Landing, and Go-Around

Operators must use the Radio Altimeter 5G C-Band Interference, Takeoff, Approach, Landing, and Go-Around procedure contained in the Operating Procedures section of this AFM.

(2) Revise the Operating Procedures Section of the existing AFM to include the information specified in figure 4 to paragraph (h)(2) of this AD. This may be done by inserting a copy of figure 4 to

paragraph (h)(2) of this AD into the existing AFM. An AFM with an Operating Procedures Section that complies with paragraph (h)(2) of AD 2023–12–14, Amendment 39–22472 (88

FR 40003, June 21, 2023) is acceptable for compliance with the requirements of this paragraph of this AD.

Figure 4 to paragraph (h)(2) – AFM Operating Procedures Revision

(As required by AD 2026-13-14)

Radio Altimeter 5G C-Band Interference, Takeoff, Approach, Landing, and Go-Around

Takeoff

If autopilot does not engage above the minimum altitude, when at a safe altitude, select both flight director switches OFF, then ON, to re-engage. LNAV and VNAV may not engage or engage at an erroneous altitude after departure.

ILS Approaches

For ILS approaches, disconnect the autopilot and autothrottle, and place both flight director switches to OFF prior to glideslope intercept. Do not set RADIO minimums on the EFIS control panel, use BARO minimums only.

Non-Precision Approaches

Autopilot, autothrottles, and flight directors may be used. Do not use autothrottles if the autopilot is disengaged. Prior to descending below MDA, disconnect the autothrottle and disengage the autopilot.

Landing

Do not rely on radio altimeter-based altitude aural callouts during approach. Adjust operational (time of arrival) landing distance for manual speedbrake deployment.

During Go-Around and Missed Approach

If go-around is required, ensure thrust is increased to go-around power.

When the flight director switches are OFF, push either TO/GA switch to display the flight director bars. When able, turn both flight directors to ON.

TO/GA mode may not be available. Autopilot may not be available. Monitor pitch and roll modes for engagement.

(i) Terminating Action for AFM Revision

(1) Modifying the airplane from a non-radio altimeter tolerant airplane to a radio altimeter tolerant airplane terminates the limitations in paragraph (h)(1) of this AD and the operating

procedures in paragraph (h)(2) of this AD for that airplane.

(2) After modifying the airplane to a radio altimeter tolerant airplane, the limitations in paragraph (h)(1) of this AD and the operating procedures in

paragraph (h)(2) of this AD may be removed from the AFM.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the

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

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

(3) The following AMOCs approved previously for AD 2023-12-14, Amendment 39-22472 (88 FR 40003, June 21, 2023) are approved as AMOCs for paragraph (g)(1) of this AD: FAA AMOC letters 720-23-00133, 720-23-00137, 720-23-00138, and 720-23-00169.

(k) Additional Information

For more information about this AD, contact Ken Fairhurst, Continued Operational Safety Technical Advisor, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817-222-5390; email: operationalsafety@faa.gov.

(l) Material Incorporated by Reference

None.

Issued on June 25, 2026.

Brian Knaup,

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

[FR Doc. 2026-13207 Filed 6-26-26; 4:15 pm]

BILLING CODE 4910-13-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 868

[Docket No. FDA-2026-N-6707]

Medical Devices; Anesthesiology Devices; Classification of the Monitor for Opioid Induced Impairment of Oxygenation

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying the monitor for opioid induced impairment of oxygenation into class II (special controls). The special controls that apply to the device type are identified

in this order and will be part of the codified language for classification of the monitor for opioid induced impairment of oxygenation. We are taking this action because we have determined that classifying the device into class II will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices, in part by reducing regulatory burdens.

DATES: This order is effective June 30, 2026. The classification was applicable on March 31, 2023.

FOR FURTHER INFORMATION CONTACT: Neel Patel, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1232, Silver Spring, MD 20993-0002, 301-796-6274, Neel.Patel@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

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

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

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

premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

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

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

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

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

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

II. De Novo Classification

On February 19, 2020, FDA received Masimo Corporation’s request for De Novo classification of the Masimo SafetyNet Opioid System. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness of the device, but there is sufficient information to establish special controls

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

Therefore, on March 31, 2023, FDA issued an order to the requester

classifying the device into class II. In this final order, FDA is codifying the classification of the device by adding 21 CFR 868.2250.¹ We have named the generic type of device “monitor for opioid induced impairment of oxygenation,” and it is identified as a device that uses sensor hardware and software algorithms to detect desaturations of arterial oxygen saturation resulting from opioid overdose.

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

TABLE 1—RISKS TO HEALTH AND MITIGATION MEASURES FOR MONITORS FOR OPIOID INDUCED IMPAIRMENT OF OXYGENATION

Identified risks to health	Mitigation measures
False negative leading to delayed treatment	Clinical performance data; Non-clinical performance testing; Software validation, verification, and hazard analysis; and Labeling.
False positive based on other medical conditions or poor algorithm performance leading to unnecessary early intervention or response.	Clinical performance data; Non-clinical performance testing; Software validation, verification, and hazard analysis; and Labeling.
Software malfunction that causes an algorithm error	Software validation, verification, and hazard analysis.
Delayed or incorrect treatment due to use-related error or overreliance on device.	Usability assessment; and Labeling.
Adverse tissue reaction	Biocompatibility evaluation.
Sensor induced injury	Electrical, thermal, and mechanical safety testing.
Failure to function as intended due to electromagnetic and wireless radio frequency interference.	Electromagnetic compatibility testing; and Wireless coexistence testing.

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

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

¹ FDA notes that the “ACTION” caption for this final order is styled as “Final amendment; final order,” rather than “Final order.” Beginning in December 2019, this editorial change was made to

III. Analysis of Environmental Impact

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

IV. Paperwork Reduction Act of 1995

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

indicate that the document “amends” the Code of Federal Regulations. The change was made in accordance with the Office of Federal Register’s (OFR) interpretations of the Federal Register Act (44

regarding premarket approval have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820 regarding quality management system regulation have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801 regarding labeling have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 868

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 868 is amended as follows:

U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22), and the Document Drafting Handbook.

PART 868—ANESTHESIOLOGY DEVICES

■ 1. The authority citation for part 868 continues to read as follows:

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

■ 2. Add § 868.2250 to subpart C to read as follows:

§ 868.2250 Monitor for opioid induced impairment of oxygenation.

(a) *Identification.* A monitor for opioid induced impairment of oxygenation is a device that uses sensor hardware and software algorithms to detect desaturations of arterial oxygen saturation resulting from opioid overdose.

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

(1) Clinical performance data under anticipated conditions of use must demonstrate that the device performs as intended and include the following:

(i) Comparison to a clinically relevant reference method to demonstrate and support the accuracy and level of sensitivity and specificity for detection of opioid induced impairment of oxygenation;

(ii) Demonstration of the consistency of the output and representativeness of the range of data sources and data quality likely to be encountered in the intended use population and relevant use conditions in the intended use environment;

(iii) Performance reported in clinically significant and distinct subpopulations and intended use environments;

(iv) For devices using algorithms based on machine learning, the clinical validation must be completed using a dataset that is separate from the training dataset; and

(v) Simulated use testing of hardware and sensors to characterize accuracy and precision across the intended use population.

(2) Software description, verification, and validation based on comprehensive hazard analysis must be performed. Software documentation must include:

(i) Full characterization of technical parameters of the software, including any algorithm(s);

(ii) Specification of acceptable incoming sensor data quality control measures; and

(iii) Justification for the validity of the algorithm(s) (e.g., clinical relevance/importance of decision threshold).

(3) Non-clinical performance data must demonstrate that the device performs as intended under anticipated conditions of use. Testing must include:

(i) Performance testing of sensor hardware to characterize sensor accuracy and precision; and

(ii) Compatibility testing of sensors with other hardware and software components of the device.

(4) Usability assessment must be provided to demonstrate that intended device users can safely and correctly use the device.

(5) All components of the device that contact the skin must be demonstrated to be biocompatible.

(6) Performance testing must demonstrate the electromagnetic compatibility, wireless coexistence, electrical safety, thermal safety, and mechanical safety of any hardware components and sensors of the device.

(7) Labeling must include the following:

(i) A summary of the clinical validation data, including relevant characteristics of the included subpopulations and use environments in the clinical study, and performance metrics, including sensitivity, specificity, positive predictive value, and negative predictive value for each of the subpopulations, use environments, and opioid types;

(ii) Principles of sensor operation, including warnings for how to avoid interfering with sensor readings;

(iii) Information for preventing an overdose, recognizing signs of an overdose, and treating an overdose;

(iv) Warnings identifying that the device is not designed to differentiate between the target condition (e.g., opioid-induced respiratory depression) and other conditions that may cause a false reading (e.g., obstructive sleep apnea);

(v) Warnings against overreliance on the device; and

(vi) A warning regarding the need for supervised use with awareness of effective countermeasures (e.g., naloxone) in case of an overdose.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-13140 Filed 6-29-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****21 CFR Part 878**

[Docket No. FDA-2026-N-6711]

Medical Devices; General and Plastic Surgery Devices; Classification of the Skin Patch for Treatment of Hyperhidrosis

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; final order.

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

DATES: This order is effective June 30, 2026. The classification was applicable on April 7, 2023.

FOR FURTHER INFORMATION CONTACT:

Rachana Visaria, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1218, Silver Spring, MD 20993-0002, 240-402-5628, Rachana.Visaria@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

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

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified into, and remains within, class III and requires

premarket approval unless and until FDA takes an action to classify or reclassify the device (21 U.S.C. 360c(f)(1)). We refer to these devices as “postamendments devices” because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

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

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

Under the first procedure, the person submits a premarket notification (510(k)) for a device that has not

previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

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

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

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

II. De Novo Classification

On December 3, 2021, FDA received Candesant Biomedical, Inc.’s request for De Novo classification of the N-SWEAT Patch. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

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

Therefore, on April 7, 2023, FDA issued an order to the requester classifying the device into class II. In this final order, FDA is codifying the classification of the device by adding 21 CFR 878.4425.¹ We have named the generic type of device “skin patch for treatment of hyperhidrosis,” and it is identified as a prescription topical patch that utilizes a chemical reaction to generate thermal energy in situ for treatment of hyperhidrosis.

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

TABLE 1—RISKS TO HEALTH AND MITIGATION MEASURES FOR SKIN PATCHES FOR TREATMENT OF HYPERHIDROSIS	
Identified risks to health	Mitigation measures
Adverse tissue reaction	Biocompatibility evaluation; and Labeling.
Device failure/malfunction leading to tissue damage	Non-clinical performance testing; Shelf life testing; and Labeling.
Adverse tissue effects as a result of the chemical reaction	Thermal safety testing; Clinical performance testing; and Labeling.
Failure to identify correct population and condition	Labeling.
Compensatory hyperhidrosis or bromohydrosis	Labeling.

FDA has determined that special controls, in combination with the general controls, address these risks to

health and provide reasonable assurance of safety and effectiveness of the device. For a device to fall within this

classification, and thus avoid automatic classification in class III, it would have to comply with the special controls

¹ FDA notes that the “ACTION” caption for this final order is styled as “Final amendment; final order,” rather than “Final order.” Beginning in December 2019, this editorial change was made to

indicate that the document “amends” the Code of Federal Regulations. The change was made in accordance with the Office of Federal Register’s (OFR) interpretations of the **Federal Register Act**

(44 U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22), and the Document Drafting Handbook.

named in this final order. The necessary special controls appear in the regulation codified by this final order.

At the time of classification, skin patches for treatment of hyperhidrosis are for prescription use only. Prescription devices are exempt from the requirement for adequate directions for use for the layperson under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) and 21 CFR 801.5, as long as the conditions of 21 CFR 801.109 are met.

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

III. Analysis of Environmental Impact

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

IV. Paperwork Reduction Act of 1995

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

List of Subjects in 21 CFR Part 878

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 878 is amended as follows:

PART 878—GENERAL AND PLASTIC SURGERY DEVICES

■ 1. The authority citation for part 878 continues to read as follows:

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

■ 2. Add § 878.4425 to subpart E to read as follows:

§ 878.4425 Skin patch for treatment of hyperhidrosis.

(a) *Identification.* A skin patch for treatment of hyperhidrosis is a prescription topical patch that utilizes a chemical reaction to generate thermal energy in situ for treatment of hyperhidrosis.

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

(1) Clinical performance testing must demonstrate that the device performs as intended under anticipated conditions of use and evaluate:

- (i) Reduction in hyperhidrosis using a validated measure;
- (ii) All adverse events; and
- (iii) Impact of residual chemical on the skin.

(2) Non-clinical performance testing must demonstrate that the device performs as intended under anticipated conditions of use. The following performance characteristics must be tested:

- (i) Thermal reactivity of the active device component(s);
- (ii) The total energy and energy flux (energy per unit area) of the device that is available to induce heating based on calorimetry; and
- (iii) Characterization of the distribution and homogeneity of the chemical(s) on and within the device.

(3) The patient-contacting components of the device must be demonstrated to be biocompatible.

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

(5) Patient and physician labeling must include:

- (i) A summary of the clinical performance testing conducted with the device;
- (ii) A listing of known risks including local adverse events, systemic effects,

and adverse changes in perspiration; and

(iii) Information about the known duration of effect.

(6) Physician labeling must also include:

- (i) Instructions for safe disposal of the device; and
- (ii) A shelf life.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–13139 Filed 6–29–26; 8:45 am]

BILLING CODE 4164–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans to prescribe the spreads component of the interest assumption under the asset allocation regulation for plans with valuation dates of July 31, 2026–October 30, 2026. These interest assumptions are used for valuing benefits under terminating single-employer plans and for other purposes.

DATES: Effective July 31, 2026.

FOR FURTHER INFORMATION CONTACT: Jose Singer-Freeman (singer-freeman.jose@pbgc.gov), Attorney, Legislative and Regulatory Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024–2101, 202–229–5432. If you are deaf or hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions—including an interest assumption—for valuing benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974 (ERISA). The interest assumption is also posted on PBGC's website (www.pbgc.gov).

PBGC uses the interest assumption in § 4044.54 to determine the present value of annuities in an involuntary or

distress termination of a single-employer plan under the asset allocation regulation. The assumptions in part 4044 of PBGC's regulations are also used in other situations where it is appropriate for liabilities to align with private sector group annuity prices. For example, PBGC's regulations on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) and Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) provide that these assumptions are used to value liabilities for purposes of determining withdrawn employers' reallocation liability in the event of a mass withdrawal from a multiemployer plan. Multiemployer plans that receive special financial assistance under the regulation on Special Financial Assistance by PBGC (29 CFR part 4262) must, as a condition of receiving special financial assistance, use the interest assumption to determine withdrawal liability for a prescribed period. Additionally, plan sponsors are required to use some, or all of these assumptions for specified purposes (*e.g.*, reporting benefit liabilities in filings required under PBGC's regulation on Annual Financial and Actuarial Information Reporting (29 CFR part 4010) or determining certain amounts to transfer to PBGC's Missing Participants Program on behalf of a missing participant of a terminating defined benefit plan under PBGC's regulation on Missing Participants (29 CFR part 4050)) and may use them for other purposes (*e.g.*, to ensure that plan spinoffs comply with section 414(l) of the Internal Revenue Code).

Part 4044 of PBGC's regulations provides that the interest assumption for part 4044 purposes is a yield curve (*i.e.*, the "4044 yield curve") that is based on a blend of two publicly available bond yield curves that is adjusted to the extent necessary so that the resulting liabilities align with group annuity prices. The adjustments are referred to as "spreads." PBGC determines and publishes spreads quarterly based on survey data on pricing of private-sector group annuities. PBGC posts the 4044 yield curve on its website at www.pbgc.gov each month shortly after its underlying data becomes available. In addition, practitioners are able to determine the 4044 yield curve as of the end of any month using the publicly available bond yield curves and the spreads specified in the regulation. This rule amends the regulation to specify the spreads used to determine the 4044 yield curve as of the last days of July, August, and September of 2026 (*i.e.*, the "third quarter 2026 spreads"). Due to space constraints, table 1 to paragraph (e) shows spreads only for the most recent four quarters. Historical spreads are available on www.pbgc.gov, along with more recent spreads.

Need for Immediate Guidance

PBGC has determined that notice of, and public comment on, this rule are impracticable, unnecessary, and contrary to the public interest. PBGC routinely updates the spreads component of the interest assumption in the asset allocation regulation so that the 4044 yield curve may be determined as soon as the underlying bond yield curves become available. These amendments are merely technical; they

ensure that use of PBGC's interest assumption continues to yield liabilities in line with group annuity prices. Accordingly, PBGC finds that the public interest is best served by issuing this rule expeditiously, without an opportunity for notice and comment, and that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

For the reasons stated in the preamble, PBGC amends 29 CFR part 4044 as follows.

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 2. In § 4044.54, revise table 1 to paragraph (e) to read as follows:

§ 4044.54 Interest assumptions.

* * * * *

(e) * * *

(3) * * *

TABLE 1 TO PARAGRAPH—SPREADS

Maturity point	Fourth quarter 2025 spreads (percent)	First quarter 2026 spreads (percent)	Second quarter 2026 spreads (percent)	Third quarter 2026 spreads (percent)
0.5	0.49	0.56	0.63	0.71
1.0	0.49	0.56	0.63	0.71
1.5	0.49	0.56	0.62	0.70
2.0	0.49	0.56	0.62	0.70
2.5	0.49	0.55	0.62	0.69
3.0	0.49	0.55	0.62	0.69
3.5	0.48	0.54	0.60	0.68
4.0	0.48	0.54	0.60	0.68
4.5	0.47	0.53	0.59	0.66
5.0	0.47	0.53	0.59	0.66
5.5	0.46	0.52	0.57	0.64
6.0	0.46	0.52	0.57	0.64
6.5	0.44	0.50	0.54	0.61
7.0	0.44	0.50	0.54	0.61
7.5	0.43	0.48	0.52	0.59
8.0	0.43	0.48	0.52	0.59
8.5	0.41	0.45	0.49	0.55
9.0	0.41	0.45	0.49	0.55
9.5	0.39	0.43	0.46	0.52

TABLE 1 TO PARAGRAPH—SPREADS—Continued

Maturity point	Fourth quarter 2025 spreads (percent)	First quarter 2026 spreads (percent)	Second quarter 2026 spreads (percent)	Third quarter 2026 spreads (percent)
10.0	0.39	0.43	0.46	0.52
10.5	0.37	0.40	0.43	0.48
11.0	0.37	0.40	0.43	0.48
11.5	0.34	0.37	0.39	0.44
12.0	0.34	0.37	0.39	0.44
12.5	0.32	0.34	0.36	0.40
13.0	0.32	0.34	0.36	0.40
13.5	0.30	0.31	0.32	0.36
14.0	0.30	0.31	0.32	0.36
14.5	0.27	0.28	0.28	0.32
15.0	0.27	0.28	0.28	0.32
15.5	0.25	0.25	0.24	0.28
16.0	0.25	0.25	0.24	0.28
16.5	0.23	0.22	0.21	0.23
17.0	0.23	0.22	0.21	0.23
17.5	0.20	0.19	0.17	0.19
18.0	0.20	0.19	0.17	0.19
18.5	0.18	0.16	0.13	0.15
19.0	0.18	0.16	0.13	0.15
19.5	0.16	0.13	0.10	0.11
20.0	0.16	0.13	0.10	0.11
20.5	0.14	0.11	0.07	0.08
21.0	0.14	0.11	0.07	0.08
21.5	0.12	0.08	0.04	0.04
22.0	0.12	0.08	0.04	0.04
22.5	0.10	0.06	0.01	0.01
23.0	0.10	0.06	0.01	0.01
23.5	0.08	0.04	−0.02	−0.02
24.0	0.08	0.04	−0.02	−0.02
24.5	0.07	0.02	−0.04	−0.05
25.0	0.07	0.02	−0.04	−0.05
25.5	0.06	0.00	−0.06	−0.07
26.0	0.06	0.00	−0.06	−0.07
26.5	0.05	−0.01	−0.08	−0.09
27.0	0.05	−0.01	−0.08	−0.09
27.5	0.04	−0.02	−0.09	−0.10
28.0	0.04	−0.02	−0.09	−0.10
28.5	0.03	−0.03	−0.10	−0.11
29.0	0.03	−0.03	−0.10	−0.11
29.5	0.03	−0.03	−0.10	−0.11
30.0	0.03	−0.03	−0.10	−0.11

* * * * *

Joseph Krettek,

Assistant General Counsel, Pension Benefit
Guaranty Corporation.

[FR Doc. 2026–13124 Filed 6–29–26; 8:45 am]

BILLING CODE 7709–02–P

**DEPARTMENT OF HOMELAND
SECURITY****Coast Guard****33 CFR Parts 140 and 146****46 CFR Parts 4 and 109**

[Docket No. USCG–2013–1057]

RIN 1625–AB99

**Marine Casualty Reporting on the
Outer Continental Shelf****AGENCY:** Coast Guard, DHS.**ACTION:** Final rule.**SUMMARY:** This final rule revises marine casualty reporting criteria for Outer Continental Shelf (OCS) activities to focus on characteristics of the involved entity rather than location of the

casualty. It also raises the property damage dollar threshold (PDT) for reporting marine casualties involving fixed OCS facilities from \$25,000 to \$75,000 and aligns other OCS units with that threshold, consistency with the PDT for vessels in U.S. waters. The rule reduces costs to U.S. industry by \$10,775 over 10 years and better harmonizes reporting requirements between U.S. and foreign floating offshore facilities, mobile offshore drilling units, and vessels engaged in OCS activities.

DATES: This final rule is effective July 30, 2026.**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2013–1057 in the search box and click

“Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Mr. David W. Deaver, Office of Investigations and Casualty Analysis, Coast Guard; telephone 202–527–2316, email *David.W.Deaver@uscg.mil*.

SUPPLEMENTARY INFORMATION:

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I. Abbreviations

- BLS U.S. Bureau of Labor Statistics
- BSEE Bureau of Safety and Environmental Enforcement
- CFR Code of Federal Regulations
- COI Collection of information
- DHS Department of Homeland Security
- FOF Floating OCS facility
- FR Federal Register
- FRFA Final Regulatory Flexibility Analysis
- MISLE Marine Information for Safety and Law Enforcement
- MODU Mobile offshore drilling unit
- NAICS North American Industry Classification System
- NCOE National Center of Expertise
- NOSAC National Offshore Safety Advisory Committee
- NPDES National Pollutant Discharge Elimination System
- NPRM Notice of proposed rulemaking
- OCMI Officers in Charge, Marine Inspection
- OCS Outer Continental Shelf
- OCSLA Outer Continental Shelf Lands Act
- OMB Office of Management and Budget
- PDT Property damage dollar threshold
- RA Regulatory analysis
- RCC Rescue Coordination Center
- SNPRM Supplemental notice of proposed rulemaking
- Secretary Secretary of the Department of Homeland Security
- § Section
- U.S.C. United States Code

II. Executive Summary

There are currently two different marine casualty reporting regimes that apply to entities on the Outer Continental Shelf (OCS). One regime

focuses on casualties involving U.S.-flagged vessels, and the other focuses on casualties involving foreign-flagged vessels and all entities fixed to the seabed. Placing various entities into one regime or the other has occurred over time; however, developments in technology have blurred the distinctions between the types of entities, and the law governing these entities has evolved. As a result, placing fixed or floating entities into one regime or the other reflects historical considerations instead of practical considerations.

The primary purpose of this final rule is to harmonize applicability provisions for the two marine casualty reporting regimes under 46 CFR part 4 and 33 CFR subchapter N. To achieve that alignment, we also had to consider some of the changes in technology used on the OCS since the regulations for marine casualty reporting in 33 CFR subchapter N were first published in 1982.

As a consequence of this realignment, we have grouped entities into two groups for reporting purposes. We categorize them roughly as fixed entities and floating entities. Floating entities include both U.S.- and foreign-flagged mobile offshore drilling units (MODUs), floating OCS facilities (FOFs), and vessels. Fixed entities include OCS facilities affixed to the OCS, such as U.S.- and foreign-flagged MODUs affixed to the seabed.

This final rule makes those floating entities not already subject to existing reporting requirements found in 46 CFR part 4, subject to part 4. Part 4 of title 46 of the CFR, Marine Casualties and Investigations, already generally applies to casualties occurring on the U.S. navigable waters and to U.S.-flagged vessels involved in casualties wherever located.

Finally, to harmonize the reporting threshold for fixed OCS facilities with the threshold for vessels, we are raising the property damage casualty reporting threshold for fixed OCS facilities from \$25,000 to \$75,000.00. The legal basis of this rulemaking is 43 U.S.C. 1333(d)(1) and Department of Homeland Security (DHS) Delegation No. 00170.1, Revision No. 01.4, paragraph 90.

The economic impact of this final rule is a cost savings to U.S. industry of about \$10,775 over a 10-year period in 2023 dollars and discounted to 7 percent, or \$1,534 annualized. Because of this final rule's further application to foreign vessels, there is also a net cost of \$94,977 to foreign industry over a 10-year period, or \$13,523 annualized. These net costs include the cost of increased reporting and cost savings from raising the property damage threshold. The cost of increased

reporting is estimated at \$107,218 for foreign industry over a 10-year period, or \$15,265 annualized, and \$26,107 to the U.S. Government over a 10-year period, or \$3,717 annualized. Cost savings from raising the property damage threshold are estimated at \$12,241 for foreign industry over a 10-year period, or \$1,743 annualized. The affected population that will now report casualties under 46 CFR part 4 includes 649 foreign-flagged entities, including MODUs, FOFs, and vessels; 1,385 fixed platforms will continue to report under 33 CFR part 146.

III. Basis, Purpose, and Regulatory History

Through 43 U.S.C. 1333(d)(1), Congress authorizes the Secretary of the Department in which the Coast Guard is operating to promulgate and enforce reasonable regulations to promote the safety of life and property on artificial islands on the OCS, and on installations and other devices permanently or temporarily attached to the seabed of the OCS, as well as in waters adjacent to such artificial islands, installations, or devices. The Coast Guard operates under DHS except when it is operating as a service in the U.S. Navy per 14 U.S.C. 103, and it is presently operating in DHS. The Secretary of the Department of Homeland Security (Secretary) delegated their authority under section 1333(d)(1) to the Commandant of the Coast Guard through DHS Delegation No. 00170.1, Revision No. 01.4, paragraph 90.

This rulemaking began with a notice of proposed rulemaking (NPRM) titled “Marine Casualty Reporting on the Outer Continental Shelf,” published on January 10, 2014 (79 FR 1780). In the NPRM, we explained our rationale for changing the criteria under which MODUs, FOFs, and vessels engaged in OCS activities report marine casualties, specifically to improve the Coast Guard's ability to capture data on casualties that occur on the U.S. OCS.

Subsequently, we published a supplemental notice of proposed rulemaking (SNPRM) titled “Marine Casualty Reporting on the Outer Continental Shelf”¹ with a 90-day comment period on June 14, 2023 (88 FR 38765). The SNPRM, which completely replaced the 2014 NPRM, differed from the NPRM primarily in two ways. First, we decided not to pursue changing the casualty reporting requirement for fixed OCS facilities as we proposed in the NPRM. Second, we decided to propose increasing the property damage dollar reporting

¹ 88 FR 38765, June 14, 2023.

threshold to \$75,000, thereby aligning the threshold reporting requirements of title 33 of the CFR with those of title 46 of the CFR.

This final rule, which revises and finalizes the regulations detailed in the SNPRM, improves the regulatory scheme in two ways. First, this final rule enables the Coast Guard to collect more comprehensive data on casualties occurring on the OCS than the Coast Guard could previously. That, in turn, helps the Coast Guard better protect the safety of life and property on the OCS, and to account for changes in technology, which improves the Coast Guard's maritime domain awareness. Second, this final rule reduces the regulatory burden on fixed OCS facilities by raising the monetary property damage threshold for reporting a marine casualty from \$25,000 to \$75,000. Further details on the changes from the SNPRM to final rule are shown in table 2.

IV. Background

The Coast Guard's regulations in 33 CFR subchapter N² apply to OCS

facilities, such as FOFs and fixed OCS facilities, as well as to vessels, such as MODUs³ and to other units engaged in OCS activities. Among these regulations in subchapter N are regulations for reporting casualties on the OCS. These reside in 33 CFR part 146, Operations.

Differences in Marine Casualty Reporting Regimes Before the Final Rule

The owner, operator, or person in charge of a U.S.- or foreign-flagged MODU, FOF, fixed OCS facility, or vessel must submit marine casualty reports according to the applicable regulations. Section 146.30 of title 33 of the CFR applies to U.S. and foreign OCS facilities, including MODUs affixed to the seabed. Sections 146.301 and 146.303 of title 33 of the CFR apply both to U.S. and foreign vessels, including MODUs that are engaged in OCS activities, but which are not affixed to the seabed. However, §§ 146.301 and 146.303 do not apply to those U.S. vessels, including MODUs,⁴ which are already required to report marine casualties under 46 CFR subpart 4.05.

The criteria for reporting casualties are not identical between titles 33 and 46 of the CFR. The differences in these regulations stem from the fact that the original casualty reporting regulations in title 33 of the CFR published on February 9, 1956 (21 FR 900) applied only to stationary artificial islands and fixed structures. On March 4, 1982 (47 FR 9366), the Coast Guard extended the application of these regulations to floating facilities and vessels engaged in OCS activities to implement amendments to the Outer Continental Shelf Lands Act (OCSLA) (Pub. L. 95–372). However, the reporting criteria in 46 CFR part 4 do not align with the reporting criteria currently found in 33 CFR part 146. As table 1 shows, the result of evolving the casualty reporting requirements on the OCS is that U.S. MODUs are regulated by two different reporting regimes, and the casualty reporting requirements for foreign MODUs are less stringent than those for U.S. MODUs.

TABLE 1—COAST GUARD MARINE CASUALTY REPORTING REQUIREMENTS

Topic	33 CFR part 146	46 CFR part 4
Statutory authority	43 U.S.C. 1333	43 U.S.C. 1333; 46 U.S.C. 2103, 2303a, 2306, 6101, 6301.
Applies to	U.S. and foreign FOFs, fixed OCS facilities, and MODUs when in contact with the seabed, and vessels engaged in OCS activities.	U.S. vessels and MODUs in any waters. Foreign vessels in U.S. waters.
Reportable casualties	No similar requirement for vessel in distress Death Injuries to 5+ persons Incapacitation > 72 hours Property damage > \$25,000 Damage affecting the usefulness of primary lifesaving or fire-fighting equipment.	Vessel in distress or loss of communication with vessel. Death. Injury. No similar incapacitation requirement. Property damage > \$75,000. Grounding. Allision. Loss of— • Main propulsion. • Primary steering. • Associated systems or components affecting maneuverability. Impairment of— • Vessel operation. • Vessel components. • Cargo. Material or adverse impact to vessel's— • Seaworthiness. • Fitness for service. • Fitness for route. * Examples—fire, flooding, failure of or damage to fire extinguishing, life-saving, auxiliary power, and bilge pumping systems. Significant harm to the environment. Immediately after addressing resultant safety concerns.
When to report	As soon as possible	Within 5 days, written casualty report required.
Subsequent reports	Within 10 days, describe possible contributing factors	Required.
Alcohol/drug testing	Required	

Under 33 CFR 146.30, for facilities, and 33 CFR 146.303 for vessels, the owner, operator, or person in charge of an FOF, a fixed OCS facility, a MODU (when in contact with the seabed of the

OCS for exploration or exploitation of subsea resources), or a vessel when engaged in OCS activities must report to the Coast Guard as soon as possible any casualties involving:

- Death;
- Injury to five or more persons in a single incident;
- Injury causing any person to be incapacitated for more than 72 hours;

² 33 CFR subchapter N consists of parts 140 through 147.

³ Definitions of “OCS facility,” “floating OCS facility,” “fixed OCS facility,” and “MODU” are provided in 33 CFR 140.10.

⁴ On December 14, 1987 (52 FR 47526, 47536), the Coast Guard amended 46 CFR 109.411 to require the owner, operator, or person in charge of a U.S. MODU to report accidents in accordance with 46 CFR part 4.

- Damage affecting the usefulness of primary lifesaving or firefighting equipment; and
- Certain other property damage in excess of \$25,000.

The reporting party must follow up the initial report with a written report that contains a description of the factors that may have contributed to the casualty, including whether there is any evidence of alcohol or drug use by individuals directly involved in the casualty. The written report must be submitted on Coast Guard Form CG-2692 "Report of Marine Casualty, Commercial Diving Casualty, or OCS-Related Casualty" or in a narrative that supplies the same information as in the form. The CG-2692 form or narrative can be supplemented, as necessary, by appended Forms CG-2692 A "Barge Addendum," CG-2692B "Report of Mandatory Chemical Testing Following a Serious Marine Incident Involving Vessels in Commercial Service," CG-2693C "Personnel Casualty Addendum," or CG-2692D "Involved Persons and Witnesses Addendum."⁵

U.S. vessels operating anywhere and foreign vessels operating within the navigable waters of the United States are subject to the marine casualty reporting requirements found in 46 CFR part 4. The regulations in 46 CFR part 4 also apply to U.S. MODUs operating on the OCS because 46 CFR 109.411 requires U.S. MODUs to report casualties in accordance with 46 CFR part 4. U.S. FOFs also report casualties under 46 CFR part 4. Part 4 of title 46 of the CFR does not apply to foreign MODUs, FOFs, or vessels operating on waters beyond the navigable waters of the United States, except for certain foreign tank vessels operating in the Exclusive Economic Zone. See 46 CFR 4.05–2(b).

Under 46 CFR part 4, a vessel's owner, agent, master, operator, or person-in-charge must report any casualties to the Coast Guard, as required by 46 CFR 4.05–1. The initial marine casualty report required under 46 CFR 4.05–1 must be followed within 5 days by a written report on the CG-2692 form. See 46 CFR 4.05–10. Additionally, under 46 CFR 4.05–12, the Coast Guard requires the marine employer to determine whether there is any evidence of alcohol or drug use by individuals directly involved in the casualty. This information can be included on the CG-2692 form or, as

necessary, on a CG-2692B form. Reports for closed investigations of reportable marine casualties investigated by the Coast Guard from 2002 to the current year are publicly available at the USCG Maritime Information Exchange.⁶

Need for Aligning Marine Casualty Reporting Regimes

A fatal incident in 2010 that resulted in the largest oil spill in U.S. history illustrates the discrepancies between the two reporting regimes. On April 20, 2010, the foreign MODU *Deepwater Horizon* was performing drilling operations on the Macondo Well. That evening, an explosion and fire took 11 lives, injured 16 others, and severely crippled and sank the MODU. The casualty resulted in a continuous flow of hydrocarbons into the Gulf of America for 87 days, causing significant environmental damage to the Gulf of America.⁷

During their casualty analysis, the members of the Marine Board of Investigation for the *Deepwater Horizon*⁸ incident noted the inconsistencies between the marine casualty reporting criteria in 33 CFR part 146 and 46 CFR part 4. In their accident report, the board members emphasized the disparate casualty reporting and chemical testing requirements between U.S. MODUs and foreign MODUs operating beyond navigable waterways of the United States.

The investigative team noted that the *Deepwater Horizon* had experienced a flooding and total loss of power events in 2008, but because of the marine casualty reporting criteria in 33 CFR subchapter N, the flooding and loss of power events were not considered reportable marine casualties that would have been reported to the Coast Guard. The investigative team stated in their report the following:

Had *Deepwater Horizon* been required to report to the Coast Guard marine casualties described in 46 CFR 4.05–1, it would have had to report both 2008 incidents, which in turn likely would have led to the identification of the systemic failure of the vessel's work permit system. It also likely

would have led to scrutiny of the vessel's SMS and a requirement that corrections be made. Reporting of marine casualties allows the Coast Guard to identify trends and safety issues across specific industries or types of vessels to be investigated, evaluated and addressed.⁹

As a result of this investigation, the Commandant directed the Coast Guard to amend subchapter N to align reporting requirements between U.S.- and foreign-flagged MODUs engaged in OCS activities. The risks are similar for other floating entities and vessels engaged in OCS activities.

U.S. MODUs, FOFs, and vessels engaged in OCS activities report casualties under 46 CFR part 4, while foreign MODUs, FOFs, and vessels engaged in OCS activities report casualties under 33 CFR part 146. The reporting criteria in 33 CFR part 146 includes fewer types of casualties than the reporting criteria in 46 CFR part 4. Thus, foreign MODUs, FOFs, and vessels engaged in OCS activity have a less comprehensive casualty-reporting regime than their U.S. counterparts. These differences are important in the offshore oil and gas exploration, development, and production industry because a lack of casualty data could hamper early detection of risks.

As the coastal State with jurisdiction, we note that the reporting criteria under 46 CFR part 4 has the same casualty reporting standards for foreign MODUs, floating facilities, and vessels that engage in OCS activities as their U.S. counterparts. Additionally, having a uniform reporting standard for both U.S. and foreign MODUs, FOFs, and vessels that engage in OCS activities equalizes the regulatory burden.

Further, the casualty reporting regulations in 33 CFR subchapter N and 46 CFR part 4 reflect neither technological developments nor present-day operations in the OCS industry since the Coast Guard updated marine casualty reporting requirements on the OCS in 1982. At that time, MODUs affixed to the seabed, such as jack-up units, conducted most of the oil and natural gas exploration on the OCS in waters to about 500 feet deep. Similarly, oil and gas companies erected fixed facilities to produce oil and natural gas because these types of facilities are feasible to the same 500-foot water depth.

Over the past 30 years, the use of floating MODUs and facilities has become commonplace, as exploration and production activities moved into increasingly deeper waters of the OCS. Today, MODUs and FOFs operate in

⁵ The CG-2692 form and other CG-2692 addendum forms are accessible at <https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Inspections-Compliance-CG-5PC/Office-of-Investigations-Casualty-Analysis/2692-Reporting-Forms-NVIC-01-15/>; accessed 01/21/2026.

⁶ <https://cgmix.uscg.mil/IIR/Default.aspx>. Users should select "Search IIR" in the top left corner; accessed 01/21/2026.

⁷ Report of Investigation into the Circumstances Surrounding the Explosion, Fire, Sinking and Loss of Eleven Crew Members Aboard the MOBILE OFFSHORE DRILLING UNIT DEEPWATER HORIZON in the GULF OF MEXICO April 20–22, 2010, Vol. I, MISLE Activity Number 3721503, dco.uscg.mil/Portals/9/OCSNCOE/Casualty-Information/DWH-Macondo/USCG-ROI-Deepwater-Horizon-Vol-I-Redacted.pdf?ver=2ezL6ldZjL6mCRGZE28pXQ%3d%3d; accessed 01/21/2026.

⁸ Ibid.

⁹ Ibid.

waters deeper than 5,000 feet. They also operate much farther offshore, and, consequently, more distant from emergency assistance. These MODUs and floating facilities are more like ocean-going vessels than older MODUs or fixed OCS facilities grounded to the seabed.

Therefore, in this final rule, as noted in the SNPRM and NPRM, the Coast Guard changes the criteria that foreign MODUs, FOFs, and vessels engaged in OCS activities will use to report casualties. This action will improve collection and analysis of casualty information on the OCS to help the Coast Guard and industry develop policies and procedures that prevent future marine casualties.

Raising the Property Damage Threshold

In this final rule, as noted in the SNPRM, the Coast Guard raises the dollar threshold for reporting property damage under 33 CFR part 146. The Coast Guard established the property damage threshold of \$25,000 in 33 CFR part 146 through a final rule that published on March 4, 1982 (47 FR 9366).

The \$25,000 threshold has not been changed in over 30 years and has not kept pace with inflation. Over time, this has resulted in reports of a greater number of casualties involving relatively minor property damage. In the regulatory analysis (RA), we address the reduction of regulatory burden from not having to report marine casualties with less than \$75,000 in property damage.

Until recently, a similar situation existed with reporting property damage under 46 CFR part 4. In that case, to account for inflation, the Coast Guard published a final rule titled “Marine Casualty Reporting Property Damage Thresholds” on March 19, 2018 (83 FR 11889) (hereafter the 2018 Final Rule). In that final rule, the Coast Guard raised the property damage reporting criteria in 46 CFR part 4 from \$25,000 per incident to \$75,000 based on the increase in the Consumer Price Index for all urban consumers between 1980 (82.408) and 2016 (240.007).¹⁰

The original \$25,000 threshold had not been selected arbitrarily. In the NPRM for the 2018 Final Rule, we quoted from a 1980 interim final rule to explain that “the Coast Guard’s selection of a monetary value as a reporting criterion is based upon the premise that increased repair costs are

indicative of the increased seriousness of a marine casualty. . . . The monetary damage criterion has been chosen as the most effective method of ensuring that only the more serious casualties are reported.” (45 FR 77439, 77440). Accordingly (as we had explained in the NPRM to the 2018 Final Rule), “it has never been our intent to require owners or operators to notify us of casualties involving relatively minor property damage; consequently, we are amending the property damage monetary threshold amounts in order to eliminate the reporting of insignificant property damage incidents.” (82 FR 7755, 7756.)

The Coast Guard believes the property damage threshold in 33 CFR part 146 should be consistent with the threshold in 46 CFR part 4. Accordingly, this final rule results in a \$75,000 property damage dollar threshold (PDT) for OCS units, which has the practical effect of reducing confusion across regulatory frameworks. It amends 33 CFR part 146 to apply this PDT increase to fixed OCS facilities and 46 CFR part 4 to make MODUs, floating offshore facilities, and vessels operating on the OCS subject to reporting criteria already subject to that PDT.

V. Discussion of Comments and Changes From SNPRM

The Coast Guard received 11 comment submissions from the SNPRM comment period.¹¹ During the SNPRM’s initial 90-day comment period, beginning on June 14, 2023, the Coast Guard received a comment requesting an extension of the comment period. The Coast Guard granted this request and, on September 12, 2023, published an extension of the comment period (88 FR 62491) for an additional 60 days until November 13, 2023. These written submissions can be viewed in the docket following the instructions in the ADDRESSES section of the preamble. The Coast Guard appreciates the comments from the public, as these insights continue to inform Coast Guard actions and programs. We summarize the comments by topic and discuss our responses in the following paragraphs.

General Comments

The Coast Guard received one comment requesting a comment period extension and a public meeting. The initial SNPRM comment period was set for 90 days, which we extended for an additional 60 days upon request. Because the comment period was 150

days, we determined a public meeting was unnecessary as 5 months is sufficient time for comments.¹²

We received another comment recommending we use input from the U.S. Coast Guard OCS National Center of Expertise (NCOE) when drafting rulemakings related to operations on the OCS. In line with the commenter’s suggestion, the Coast Guard received input from the OCS NCOE when drafting this regulation.

Property Damage Threshold

One commenter recommended keeping a \$25,000 threshold for reporting property damage for continuity and consistency. Another commenter recommended increasing the reporting threshold from \$75,000 to \$250,000.

The Coast Guard does not agree with keeping the threshold for reporting property damage at \$25,000 or with raising it to \$250,000. The purpose of updating the property damage threshold in 33 CFR part 146 is to harmonize the reporting criteria across reporting protocols and neither of those two recommendations would result in consistent reporting criteria.

As discussed in the 2018 Final Rule, the property damage threshold was initially set at \$25,000 in the 1980s and that original \$25,000 was selected as indicator that a marine casualty was serious enough to warrant an investigation. This 1980’s property damage threshold has not kept pace with inflation, and over time, that has diminished its value as an indicator of the seriousness of a marine casualty and resulted in the reporting of casualties involving relatively minor property damage.

Raising the property damage threshold in 33 CFR part 146 to \$250,000 would increase the threshold well above the inflation amount. It would, moreover, not only fail to address the inconsistency in reporting criteria across different entities but actually exacerbate that inconsistency by setting the 33 CFR part 146 damage threshold well above that of a Serious Marine Incident under 46 CFR part 4. The threshold for a Serious Marine Incident was raised to \$200,000 from \$100,000 in the 2018 Final Rule to adjust that threshold for inflation and recalibrate that amount to reclaim its place as an indicator of serious marine incidents.

Updating the property damage to \$75,000 accounts for inflation, restores the dollar threshold to its role as an indicator of the seriousness of a marine

¹⁰ 2016 was the most recent full year of data available at the time of the analysis for the final rule (83 FR 11889, March 19, 2018). See CPI Detailed Report, Data for December 2016, Table 24, <https://www.bls.gov/cpi/tables/historical-cpi-u-201710.pdf>; accessed 01/26/2026.

¹¹ In the SNPRM, we responded to comments submitted during the NPRM comment period. See Section VII of the preamble to the SNPRM (Discussion of Comments on the 2014 NPRM), which begins at 88 FR 38770.

¹² 88 FR 62491, September 12, 2023.

casualty, and it results in consistent reporting criteria across all entities reporting marine casualties to the Coast Guard. The change to the threshold in 46 CFR part 4 also addressed a concern expressed by NOSAC in its comment on the 2014 NPRM, that the property damage threshold for casualty reporting should be increased from \$25,000 to account for inflation. We are, therefore, updating the reporting thresholds for reporting property damage due to marine casualties to \$75,000.

Pollution

We received two comments on reporting and investigating pollution spills. The first commenter stated that pollution spills must already be reported under the Clean Water Act¹³ and that requiring them to be reported as marine casualties with a CG–2692 form is duplicative and adds no value. The second commenter expressed concerns that there will be a significant increase in the number of marine casualty notifications that require a CG–2692 form due to only pollution spills and will increase the number of investigations being conducted. Both commenters state that there are conflicting requirements related to spill reporting between the Coast Guard, BSEE, and EPA, and that permitted discharge points (under the National Pollutant Discharge Elimination System (NPDES)) would now be required to be reported as marine casualties.

The Coast Guard agrees that pollution spills are already required to be reported under the Clean Water Act. Those notifications are done through the National Response Center and are distributed to the Coast Guard, BSEE, and the EPA. They do not need to be reported to the Coast Guard separately as marine casualties because a report under existing regulations (33 CFR 153.203, 40 CFR 117.21, or 40 CFR part 302) for an occurrence exclusively involving significant harm to the environment satisfies the immediate notification requirement applicable to marine casualties.¹⁴ This final rule does not change that. Therefore, there is not a duplicative reporting requirement, and we do not anticipate there being an increase in the number of marine casualty reports due solely to pollution spills. This final rule does not change the requirements for the NPDES permit program and permitted discharge points are not considered to be a marine casualty; therefore, they are not required to be reported under this rule.

Bureau of Safety and Environmental Enforcement (BSEE)

One commenter expressed concerns regarding duplicative reporting to the Bureau of Safety and Environmental Enforcement (BSEE) and the Coast Guard and requested improvements to the incident reporting process. The same commenter expressed concerns about the transparency of interactions between the Coast Guard and BSEE related to incident investigations.

While there is overlapping jurisdiction on the OCS, the Coast Guard and BSEE have a Memorandum of Understanding and multiple Memorandums of Agreement that address the agencies' responsibilities. The overarching Memorandum of Understanding identifies the roles and responsibilities of the two agencies for the oversight of OCS activities. The Memorandums of Agreement serve to provide more detailed explanations of how the agencies work to enhance collaboration, reduce redundancy, ensure consistency among the two agencies; they provide clarity to the regulated community and the public on the roles, responsibilities, and interaction between the two agencies.¹⁵ MOA OCS–05 is specific to incident investigations with BSEE. The Coast Guard and BSEE will continue working together to minimize duplicative work, as we explained in the SNPRM,¹⁶ but changing the incident reporting process or the manner in which the Coast Guard and BSEE interact is beyond the scope of this rulemaking.

Definitions and Terminology

We received multiple comments about definitions and terminology. One comment pointed out language used in Section IX, Regulatory Analysis of the SNPRM, which referenced Coast Guard organizational units that no longer exist.

The regulations have since been changed and current regulations refer to the current names of these organizational units. This final rule does not change the nomenclature of Coast Guard offices or units which receive reports for marine casualties.

Another submission raised 15 issues on the terminology used in the SNPRM preamble as well as in the proposed regulatory text. We received five comments about terms and language used in Section VIII of the SNPRM, which detailed differences in proposed regulations between the NPRM and

SNPRM. Many of these comments questioned if the Coast Guard proposed new acronyms and terms, such as floating entities, foreign FOF, and fixed platforms.

The Coast Guard did not propose any new acronyms or terms. The only definition we had proposed to change in the NPRM was the definition of an FOF. Upon review, we agreed with the SNPRM comment that the proposed change to the definition of "Floating OCS Facility" blurred the distinction between a facility and a vessel. Therefore, we are not amending the definition of "Floating OCS Facility," and we will keep the existing definition of FOF. However, this final rule will still require FOFs to report marine casualties per 46 CFR part 4 as they face similar risks as vessels. Fixed OCS units will continue to use the reporting requirements found in 33 CFR parts 140 and 146.

As far as the language used in Section VIII of the SNPRM, referring to units as "flagged" was to provide more explanation and clarification. It was not associated with any additional regulatory definitions. For instance, we used "foreign FOF" as shorthand to identify that an FOF was not U.S.-flagged without introducing a new regulatory definition. It was not our intent to introduce new acronyms or terms.

One commenter requested that the Coast Guard create a clear distinction between FOFs that are flagged, self-propelled, seagoing vessels, and non-vessel FOFs such as spars, tension leg platforms, and semi-submersible floating production units that are permanently moored, citing the CG–OES Policy Letter 01–22.¹⁷ The cited CG–OES Policy Letter 01–22 was issued to aid the OCMi in determining which floating OCS units "are not vessels"; therefore, this commenter's request is beyond the scope of this rulemaking.

Another commenter expressed confusion regarding the distinctions between vessels and non-vessels in our references to FOFs and fixed OCS facilities. This commenter also requested aligning the degree of specificity required in the casualty reporting criteria in 33 CFR part 146 and 46 CFR part 4. This commenter stated that when an OCS unit is considered a vessel, the casualty reporting regulations should be aligned as

¹⁷ CG–OES Policy Letter 01–22, DETERMINATION OF WHETHER A FLOATING OUTER CONTINENTAL SHELF FACILITY (FOF) IS A VESSEL, <https://www.dco.uscg.mil/Portals/9/OCSNCOE/References/Policy-Letters/HQ/OES/CG-OES-PL-01-22.pdf?ver=7U0oM63qm50hvhXJ3WC0jw%3d%3d>; accessed 01/21/2026.

¹³ 33 U.S.C. 1321.

¹⁴ 46 CFR 4.05–1(c).

¹⁵ The Memorandum of Understanding and the Memorandums of Agreement can be found at <https://www.bsee.gov/about-bsee/interagency>; accessed 01/21/2026.

¹⁶ 88 FR 38771, June 14, 2023.

proposed in the SNPRM. When an OCS unit was not considered a vessel but more appropriately described as either a fixed OCS facility or an FOF, the commenter felt the OCS unit should follow only the reporting requirements in 33 CFR part 146.

The commenter stated that the risk profiles between FOFs and vessels are different, and that the application of vessel-based reporting requirements in 46 CFR part 4, as explained above, is not appropriate. Additionally, they stated that nearly all the vessel-based marine casualty criteria in 46 CFR part 4 are not applicable to FOFs, which are not vessels as determined by the Coast Guard Officers in Charge, Marine Inspection (OCMI). Another frequent request was to keep requirements for vessel FOFs in 46 CFR part 4 and requirements for non-vessel FOFs in 33 CFR part 146.

The Coast Guard agrees that there are distinctions between the different types of OCS units. However, the purpose of this final rule is to better align the reporting requirements for marine casualties found in 33 CFR subchapter N with those found in 46 CFR part 4. This final rule does not alter the reporting requirements found in 33 CFR part 146 for fixed OCS units as defined in 33 CFR part 140, except for raising the reporting threshold dollar amount to \$75,000.

FOFs are at risk of marine casualties similar to those that vessels are at risk of, such as flooding or loss of stability. These types of marine casualties are not currently accounted for in 33 CFR part 146. While some of the types of marine casualties identified in 46 CFR part 4 may not be applicable to FOFs, the only requirement is to report the marine casualty, if it occurs.

Lastly, we received one comment recommending we issue the National Offshore Safety Advisory Committee (NOSAC) a task statement for input on OCS terms and other definitions. We do not agree that it is necessary to issue NOSAC a task statement to review terms and definitions we proposed to change in the SNPRM because we are no longer amending terms or definitions in this final rule.

OCSLA and Subchapter N Updates

We received four comments about the 2021 National Defense Authorization Act's OCSLA amendment that added "including non-mineral energy resources" to 43 U.S.C. 1333(a)(1). These comments recommended revising 33 CFR subchapter N to include this change. Another commenter suggested that the stated objective of this final rule could not be achieved without

including non-mineral vessel activities on the OCS in the same reporting regime. This commenter also recommended withdrawing the SNPRM until all of subchapter N is updated.

The Coast Guard appreciates all these comments; however, the OCSLA amendment and suggestions to update the entirety of subchapter N to include non-mineral vessel activities are separate topics that are beyond the scope of this rulemaking.

Data Validity and Affected Population Concerns

Four comments questioned the validity of affected population data and Marine Information for Safety and Law Enforcement (MISLE) labeling being inconsistent when investigating OCS incidents. Another comment was about the integrity of MISLE data regarding industrial vessels.

To address concerns that the affected population undercounted vessels, the Coast Guard cross referenced the population of reporting vessels that appear in MISLE casualty records with both MISLE population data and the OCS NCOE-maintained directory of FOFs. This cross-reference increases the total population count to 649 foreign vessels and prevents any double counting in the overall population of vessels that are labeled as industrial vessels. We continue to use MISLE as the source for the count of casualties as this is the primary record of reports made to the Coast Guard and has no private equivalent, making it the most appropriate source for the counts of casualties reported and population of reporting vessels.

Another comment questioned the validity of the NOSAC report, given the date of the report. We agree with the commenter that the data in the NOSAC report reflected activity on the OCS at the time the NOSAC report was issued and that the data in the report may change. However, our analysis was intended to be based on a specific period of time and does not rely solely on the information found in the NOSAC report.¹⁸ So, for the purpose of this rulemaking, we reviewed and updated the analysis at each stage of the process and determined the analysis reflects the period from 2015 to 2022 when the data was collected, as detailed in the RA.

Cost Burden

One commenter expressed concerns about the accuracy of the cost burden associated with creating a drug-testing

program similar to the Department of Transportation's program.

This final rule makes no change to the existing requirements in 46 CFR parts 4 and 16 to report alcohol and drug testing as part of a marine casualty report.

VI. Discussion of the Rule

This final rule aligns the marine casualty reporting requirements in 33 CFR part 146 with those found in 46 CFR part 4 to harmonize reporting requirements that apply to foreign and U.S. MODUs, FOFs, and vessels engaged in OCS activities. This final rule also raises the property damage threshold that triggers a casualty report from \$25,000 to \$75,000 for fixed OCS facilities. These actions will also improve the collection and analysis of casualty information on the U.S. OCS to help the Coast Guard and industry develop policies and procedures that prevent future marine casualties. We discussed the section-by-section changes in the SNPRM.¹⁹ As noted above, we are not amending the definition of "Floating OCS Facility" in 33 CFR 140.10 as we had proposed to do. In other respects, however, the section-by-section discussion in the SNPRM applies to this final rule.

VII. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) 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. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 14192 (Unleashing Prosperity Through Deregulation) directs agencies to significantly reduce the private expenditures required to comply with Federal regulations and provides that "any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations."

¹⁸ A copy of NOSAC's report is included in the rulemaking docket, <https://www.regulations.gov/document/USCG-2013-1057-0009>; accessed 01/21/2026.

¹⁹ See section VI (Discussion of the Supplemental Proposed Rule); 88 FR 38769, June 14, 2023.

Two additional Executive orders promote the goals of Executive Order 13563: Executive Order 13609 (Promoting International Regulatory Cooperation) and Executive Order 13610 (Identifying and Reducing Regulatory Burdens). Executive Order 13609 targets international regulatory cooperation to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. Executive

Order 13610 aims to modernize the regulatory systems and reduce unjustified regulatory burdens and costs on the public.

The Office of Management and Budget (OMB) has not designated this final rule a “significant regulatory action,” under section 3(f) of Executive Order 12866.

Accordingly, OMB has not reviewed it. This final rule is considered an Executive Order 14192 deregulatory

action. We estimate that this rule generates \$0.0029 million dollars in annualized cost savings at a 7-percent discount rate, discounted relative to year 2024, over a perpetual time horizon.

An RA follows.

We summarize the differences between the SNPRM and final rule in table 2.

TABLE 2—SUMMARY OF CHANGES FROM SNPRM TO FINAL RULE

	SNPRM	Final rule
Affected Population	Solely used MISLE as a source for vessel population	In addition to MISLE, we use the NCOE’s directory of FOFs to determine the vessel population.
Wages	Wages from 2019 load factors from employer cost index.	Wages and load factors updated to 2023.

In this final rule, as in the SNPRM, the Coast Guard amends regulations in which marine casualties, under 33 CFR subchapter N, are reported for foreign MODUs, FOFs, and vessels operating on the OCS. The amendments will close the gap between casualty reporting requirements for U.S. and foreign MODUs, FOFs, and vessels engaged in

an OCS activity under the 46 CFR part 4 reporting requirements, which brings foreign entities to the same standard as U.S. entities. In addition to the change from the NPRM and as proposed in the SNPRM, the Coast Guard updates the property damage threshold from \$25,000 to \$75,000 for reporting under 33 CFR part 146 to align with the

threshold in 46 CFR part 4, which was raised in the 2018 Final Rule,²⁰ which, in turn, decreases the number of reports by U.S. industry and generates undiscounted cost savings of about \$15,340 for the next 10 years. We summarize the impacts of the changes of this final rule in table 3.

TABLE 3—SUMMARY OF THE IMPACTS OF THIS FINAL RULE

Category	Summary
Applicability	- Requires marine casualties, involving foreign MODUs, FOFs, and vessels engaged in OCS activities, to be reported under 46 CFR part 4 as consistent with U.S. MODUs, FOFs, and vessels. - Raises the monetary reportable marine casualty dollar threshold in 33 CFR part 146 from \$25,000 to \$75,000 to align with 46 CFR part 4.
Affected Population	For marine casualties on MODUs, FOFs, and vessels currently required to be reported under 33 CFR part 146:
Total Costs (2023 dollars, 7% Discount Rate).	649 foreign MODUs, FOFs, and vessels will shift reporting to 46 CFR part 4. 1,385 fixed platforms will continue to report under 33 CFR part 146. Cost for U.S. Government: 10-Year: \$26,107 Annualized: \$3,717 Cost for Foreign Industry: 10-Year: \$107,218 Annualized: \$15,265 On average, we anticipate an increase of 75 marine casualty reports annually.
Cost Saving to Industry (2023 dollars, 7% Discount Rate).	Savings for U.S. industry: 10-Year: —\$10,775 Annualized: —\$1,534 Savings for Foreign Industry: 10-Year: —\$12,241. Annualized: —\$1,743.
Net Cost (2023 dollars, 7% Discount Rate).	Reduced reporting from raising the property damage threshold for a reportable marine casualty. Net Cost for Foreign Industry: 10-Year: \$94,977. Annualized: \$13,523.
Unquantified Benefits	Increases the Coast Guard’s domain awareness through harmonization of marine casualty reporting requirements across CFR parts. Potential for risk mitigation if problems are identified before they develop into more serious accidents.

The OMB has not designated this rule a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it.

Affected Population

As in the SNPRM,²¹ the affected population comprises all foreign FOFs identified in the MISLE database as floating production systems and floating

production storage offloading vessels, as well as various types of industrial vessels,²² MODUs, and lift boats. For this final rule, we use the index of FOFs from the Coast Guard’s OCS NCOE.²³

²⁰ “Marine Casualty Reporting Property Damage Thresholds” (83 FR 11889, March 19, 2018).

²¹ “Marine Casualty Reporting on the Outer Continental Shelf” (88 FR 38765, June 14, 2023).

²² The following vessel types are excluded: cable laying, dredger, dredger barge, factory ship, fishing support vessel, floating dry dock, orbital launch, offshore service vessel, pilot vessel, radio ship, and seabed mining vessel. Supply vessels not listed as

offshore service vessels and operating on an ocean route are included.

²³ <https://www.dco.uscg.mil/OCSNCOE/FOF/Index/>; accessed 01/21/2026.

We provide transparency in table 4, which shows details on the affected population and addresses concerns that the population of industrial vessels in the MISLE database undercounts the

affected population. Since the 2020 SNPRM, MISLE now distinguishes FOFs, so we listed those separately from industrial vessels to show that we did not undercount the population. We

excluded types that did not have an oceangoing route under the assumption that they would not operate on the OCS.

TABLE 4—AFFECTED POPULATION

	SNPRM (2020)	Final rule (2024)
Moved to Report under 46 CFR Part 4		
Industrial Vessels (Foreign)	310	336
Oil Supply Vessels (Foreign)	0	0
MODUs (Foreign) *	257	238
Lift Boats (Foreign)	13	16
FOFs (Foreign)	8	59
<i>Total Foreign Vessels</i>	588	649
Updated Property Damage Threshold		
Fixed Platforms (All U.S.)	1,754	1,385

* This number reflects active MODUs as reported by MISLE. It does not necessarily show how many are actively drilling or in contact with the seabed.

Baseline Reporting

Table 5 describes the different events that prompt reporting of a marine casualty under 33 CFR part 146 and 46 CFR part 4. Title 46 CFR part 4 has more casualty reporting triggers than 33 CFR part 146. Therefore, an FOF, MODU, or vessel will report more casualties under 46 CFR part 4 than under 33 CFR part 146.

TABLE 5—CURRENT COAST GUARD MARINE CASUALTY REPORTING REQUIREMENTS

33 CFR Part 146	46 CFR Part 4
Death	Death.
Injuries to 5+ persons	Injury.
Incapacitation > 72 hours.	
Property damage > \$25,000 (fixed facilities only). (33 CFR 146.30 and 146.303).	Property damage > \$75,000. Grounding. Allision.
	Vessel in distress or loss of communication with vessel.
	Loss of—
	• Main propulsion
	• Primary steering
	• Associated systems or components affecting maneuverability
	Impairment of—
	• Vessel operation
	• Vessel components
	• Cargo

TABLE 5—CURRENT COAST GUARD MARINE CASUALTY REPORTING REQUIREMENTS—Continued

33 CFR Part 146	46 CFR Part 4
	Material or adverse impact to vessels'—
	• Seaworthiness.
	• Fitness for service.
	• Fitness for route.
	• Examples—fire, flooding, failure of or damage to fire extinguishing, life-saving, auxiliary power, bilge pumping systems.
	Significant harm to the environment (defined in 46 CFR 4.03–65).
	(46 CFR 4.04–1, 4.04–2, and 4.05–1.)

Transferring marine casualty reporting of MODUs, FOFs, and vessels to 46 CFR part 4 will require an increase in the types of reportable casualties, including injury to fewer than five persons, grounding, stranding, foundering, flooding, collision, allision, explosion, fire, loss of propulsion, loss of steering, and impaired operations. There are already some voluntary submissions of marine casualty reports, which are not required under 33 CFR part 146, for incidents on foreign MODUs, FOFs, and vessels involving the criteria we mentioned previously. Even with a count of active foreign MODUs, FOFs, and vessels each year, we are unable to determine the number

of incidents that were non-reportable under 33 CFR part 146 but would have been reportable under 46 CFR part 4. Without aligned reporting, we are unable to compare how often one type of incident occurs on foreign MODUs, FOFs, and vessels compared to their U.S. counterparts, while accounting for differences in the total population sizes, how much of those populations actively report, and general risk levels between the two populations.

The reports for nonfatal types of incidents described as voluntary for foreign MODUs, FOFs, and vessels are mandatory for U.S. MODUs, FOFs, and vessels and will become mandatory for all flags with this final rule. We show the number of voluntary and mandatory marine casualty reports by flag type in table 6. From 2015 to 2022, MISLE recorded 258 total voluntary reports of casualties that met the reporting criteria under 46 CFR part 4 from a total of 163 uniquely identified foreign MODUs, FOFs, and vessels reporting under title 33 of the CFR. Table 6 shows the number of marine casualty reports from foreign MODUs, FOFs, and vessels that met the criteria for a reportable casualty under title 46 of the CFR but not under title 33 of the CFR, meaning those reports were submitted voluntarily. Table 7 shows the number of unique foreign MODUs, FOFs, and vessels that submitted voluntary reports in each year. These reports are unique only within each year; across the entire range from 2015 to 2022, there were 69 unique entities, meaning 94 foreign MODUs, FOFs, or vessels submitted reports in multiple years.

TABLE 6—CASUALTY REPORTS BY TYPE FROM FOREIGN MODUS, FOFs, AND VESSELS

	2015	2016	2017	2018	2019	2020	2021	2022	Total	Annual average
Casualties Reportable under Title 46 of the CFR										
Injury < 5 & > 0	47	23	24	43	21	19	23	13		
Grounding	0	4	6	0	0	0	1	0		
Allision	0	2	3	1	0	0	0	0		
Stranding	0	0	0	0	0	0	0	0		
Loss of Propulsion	1	1	0	0	0	0	0	0		
Loss of Steering	0	0	3	0	0	1	0	0		
Impaired Operation	0	0	0	0	0	1	3	1		
Foundering	0	0	0	0	0	0	0	0		
Flooding	0	0	3	0	0	0	0	0		
Collision	1	0	0	0	0	1	2	1		
Explosion	0	0	0	0	0	0	0	0		
Fire	5	1	1	1	0	0	1	0		
Total	54	31	40	45	21	22	30	15	258	32.25
Casualties Reportable under Title 33 of the CFR										
Fatality	3	0	1	1	0	2	1	1	9	1.125

TABLE 7—NUMBER OF UNIQUE REPORTING FOREIGN MODUS, FOFs, AND VESSELS

	2015	2016	2017	2018	2019	2020	2021	2022	Total	Annual average
32		19	20	23	20	15	21	13	163	20.375

Similarly, from 2015 to 2022, MISLE recorded 1,333 total reports from 830 identified U.S. MODUs, FOFs, and vessels that matched the reporting criteria for voluntary reports from foreign MODUs, FOFs, and vessels, although those types of reports are mandatory for U.S. MODUs, FOFs, and

vessels. Table 8 shows the number of marine casualty reports from U.S. MODUs, FOFs, and vessels that met the criteria for a reportable casualty under title 46 of the CFR but not under title 33 of the CFR. Table 9 shows the number of unique U.S. MODUs, FOFs, and vessels that submitted reports in

each year. These are unique only within each year, across the entire range from 2015 to 2022, there were 574 unique entities, meaning 256 U.S. MODUs, FOFs, or vessels submitted reports in multiple years.

TABLE 8—CASUALTY REPORTS BY TYPE FROM U.S. MODUS, FOFs, AND VESSELS

	2015	2016	2017	2018	2019	2020	2021	2022	Grand total	Annual average
Reportable under Title 46 of the CFR										
Injury < 5 & > 0	118	94	116	115	99	126	132	124		
Grounding	8	20	16	6	10	4	3	4		
Allision	23	15	16	12	13	15	8	22		
Stranding	0	0	0	0	0	0	0	0		
Loss of Propulsion	4	3	12	5	3	0	0	0		
Loss of Steering	1	1	0	0	0	1	1	3		
Impaired Operation	0	0	0	0	0	14	27	15		
Foundering	0	0	0	0	0	0	0	0		
Flooding	14	12	10	6	10	1	0	1		
Collision	8	5	9	3	3	6	10	2		
Explosion	0	0	0	0	0	0	0	0		
Fire	5	3	1	2	2	4	2	5		
Total	181	153	180	149	140	171	183	176	1,333	166.625
Reportable under Title 33 of the CFR										
Fatality	3	1	1	2	0	4	3	0	14	1.75

TABLE 9—NUMBER OF UNIQUE REPORTING U.S. MODUS, FOFs, AND VESSELS

2015	2016	2017	2018	2019	2020	2021	2022	Total	Annual average
107	95	114	102	80	115	109	108	830	103.750

For marine casualty reports involving fatalities, which are mandatory for everyone, an average of 1.125 fatality reports from 2015 to 2022 were submitted for foreign MODUs, FOFs, and vessels, compared to an average of 1.750 fatality reports submitted for U.S. MODUs, FOFs, and vessels. The 8-year average of fatality reports per reporting foreign MODUs, FOFs, and vessels is

0.055, which we calculated by dividing the annual average of casualties reportable under title 33 of the CFR shown in table 7 by the annual average shown in table 6 ($1.125 \div 20.375$). The 8-year average of fatality reports per reporting U.S. MODU, FOF, and vessel is 0.017, which we calculated by dividing the annual average of casualties reportable under title 33 of

the CFR shown in table 8 by the annual average shown in table 9 ($1.75 \div 103.75$).

Table 10 shows the 5-year average number of marine casualty reports per unique MODU, FOF, and vessel. We rounded the averages to two decimal places for presentation, but we did not round the averages in the calculations for the estimates in this analysis.

TABLE 10—5-YEAR AVERAGE CASUALTY REPORTS PER UNIQUE MODU, FOF, AND VESSEL, FROM 2014 TO 2019

	Foreign	U.S.
Average number of FOF, MODU, and vessels reporting annually	20.375	103.750
Average number of nonfatality reports	32.250	166.625
Average number of fatality reports	1.125	1.750

* Ratios are sensitive to rounding and were not rounded in the calculations for the analysis.

Currently, fatal marine casualty reports are mandatory for both populations while, in this sample, non-fatality marine casualty reports are voluntary for foreign MODUs, FOFs, and vessels.

Costs From Increased Reporting

Under this final rule, the Coast Guard will require that owners and operators of foreign MODUs, FOFs, and vessels engaged in an OCS activity report marine casualties using the CG-2692 form under the reporting requirements

of 46 CFR part 4, instead of the requirements under 33 CFR part 146. All U.S. entities already comply with these requirements. To estimate the potential increase in non-fatality marine casualty reports generated by foreign MODUs, FOFs, and vessels, the Coast Guard estimates how many marine casualty reports will be generated if the ratio of nonfatality marine casualty reports for the foreign population matched the ratio of nonfatality marine casualty reports of the U.S. population. The Coast Guard estimates this by

taking the ratio of U.S. nonfatality reports to fatality reports, and foreign nonfatality reports to fatality reports and solving for foreign nonfatality reports as shown in equation (A). The Coast Guard believes that this is the best approximation available, given uncertainty about differences in the total population sizes, differences in the percentage of the active populations that report marine casualty reports, and differences in general risk levels of operations between the two populations.

$$(A) \frac{U.S. \text{ nonfatality reports}}{U.S. \text{ fatality reports}} = \frac{\text{Foreign nonfatality reports}}{\text{Foreign fatality reports}}$$

Using the figures for average annual reports from table 10, we then apply the formula shown in equation (A), assuming that the total value of foreign nonfatality reports is unknown and that the 32.25 nonfatality reports from

foreign MODUs, FOFs, and vessels are voluntary but not equal to the total number of reports that will be realized under this final rule. The result is 107.1161 foreign nonfatality reports, the total number of nonfatality reports that

would have been reported, if the proportion of foreign fatality reports was the same as U.S. fatality reports. We show the calculation of these 107.12, rounded, foreign nonfatality reports in the equations (B), (C), and (D).

$$(B) \frac{166.625}{1.750} = \frac{x}{1.125}$$

$$(C) 166.625 \times 1.125 = 1.750 \times x \rightarrow 187.4531 = 1.750x$$

$$(D) \frac{187.4531}{1.750} = x \rightarrow x = 107.1161$$

In equation (B), we assume that the U.S. nonfatality reports equal 166.625 as shown in Table 10, the average number of U.S. fatality reports equal 1.750, and the average number of foreign fatality reports equal 1.125. In equation (C), we begin solving the proportion for x by multiplying 166.625 by 1.125 and multiplying 1.750 by x , which results in $187.4531 = 1.750x$. Finally, in equation (D), we divide 187.4531 by 1.750, which equals 107.1161, the total number of estimated foreign nonfatality reports.

Then, from this estimated number of foreign nonfatality reports we subtract the number of voluntary reports already received from the foreign population to get the marginal increase in marine casualty reports. This is the total of 107.1161 foreign nonfatality reports minus the 32.250 voluntary foreign nonfatality reports, for an increase of 74.8661 reports. Therefore, the Coast Guard assumes that by making the requirements for reporting nonfatal casualties by foreign MODUs, FOFs, and

vessels the same as for U.S. MODUs, FOFs, and vessels, foreign MODUs, FOFs, and vessels will report an average of 75 more nonfatality reports per year, rounding 74.8661 up to the nearest whole number.

Table 11 summarizes the annual cost of additional marine casualty reports submitted for foreign MODUs, FOFs, and vessels. The time burden and wage cost of generating marine casualty reports comes from the collection of information (COI) “OMB Control No. 1625–0001, Report of Marine Casualty and Chemical Testing of Commercial Vessel Personnel.” It lists the burden hour per response for a marine casualty report as 1 hour, with a corresponding loaded hourly wage of \$58.08, which is equivalent to the 2023 GS–3 Outside Government Wage of \$34.24 with a load factor of 1.70.²⁴ Instead of using the COI rate for this final rule, we use the 2023 U.S. Bureau of Labor Statistics (BLS) wage for captains, mates, and pilots of water vessels, which is a

loaded hourly wage of \$69.60.²⁶ In the 2018 Final Rule updating the property damage threshold for 46 CFR part 4, the Coast Guard acknowledged industry comments that some particularly complex reports require additional review before submission to the Coast Guard. Thus, the Coast Guard uses the same adjustment for marine casualty reports under title 33 of the CFR and assumes that 10 percent of marine casualty reports have an additional burden-hour response of 10 hours, to account for internal company review conducted by lawyers or upper management. This assumption does not increase the number of marine casualty reports but increases the burden time for each marine casualty report; the total increase in reports is 75 and 8 of those reports will take 11 hours to prepare instead of 1 hour. For this final rule, we use the BLS wage for lawyers, which is a loaded hourly wage of \$125.56.²⁷

TABLE 11—ANNUAL COST OF ADDITIONAL CASUALTY REPORTS FROM FOREIGN MODUS, FOFs, AND VESSELS

	Annual responses	Burden hours per response	Annual hour burden	Wage rate	Annual cost burden (\$)
	(A)	(B)	(C) = (A) × (B)	(D)	(E) = (C) × (D)
Marine Casualty Report	75	1	75	\$69.60	\$5,220
Additional Burden for 10% of Respondents *	8	10	80	125.56	10,045
Total Annual Cost					15,265

* Note that these increased review times do not constitute separate marine casualty reports. Rather, they increase the total burden time of a single report. We have only 74 new reports, 8 of which will require 11 total hours to prepare.

Table 12 shows the annual costs across a 10-year period of analysis. This annual cost of \$15,265 generates a total cost of \$107,218 over a 10-year period in 2024 dollars discounted at 7 percent.

TABLE 12—COST TO FOREIGN INDUSTRY OVER A 10-YEAR PERIOD

Year	Annual undiscounted cost (\$)	Total, discounted (\$)	
		3%	7%
1	\$15,265	\$14,821	\$14,267
2	15,265	14,389	13,333
3	15,265	13,970	12,461

²⁴ See the Burden Calculation Worksheet at www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201903-1625-001; accessed 01/21/2026.

²⁵ Casualty reports are reviewed at Coast Guard Headquarters and the 2020 Washington, DC locality wage of \$34.24 for a GS–9, Step 5, employee is used (www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/DCB_h.pdf; accessed 01/21/2026). The load factor is 1.70 (rounded) estimated by dividing \$67.00 average total compensation per hour by \$39.50 average hourly wage from tables 4 and 2, respectively, of the 2017 Congressional Budget Office report, “Comparing the Compensation of Federal and Private-Sector Employees 2011–2015”

(www.cbo.gov/system/files/115th-congress-2017-2018/reports/52637-federalprivatepay.pdf; accessed 01/21/2026). The loaded wage is the mean wage multiplied by the load factor. The loaded wage, \$58.08, equals \$34.24 multiplied by 1.6962.

²⁶ The 2023 mean wage for captains, mates, and pilots of water vessels is \$47.03 (www.bls.gov/oes/2023/may/oes535021.htm; accessed 01/21/2026). The load factor is equal to the ratio of total compensation (CMU2010000520000D) over wages and salaries (CMU2020000520000D) from 2023 or \$37.92 divided by \$25.61, or 1.48. The loaded wage is the mean wage multiplied by the load factor. The loaded wage, \$69.60, equals \$47.03 multiplied by 1.48. Series are from the Bureau of Labor Statistics, Employer Cost for Employee Compensation for

Private Industry Workers, Transportation and Material Moving.

²⁷ The 2023 mean wage for lawyers is \$84.84 (www.bls.gov/oes/2023/may/oes231011.htm; accessed 01/21/2026). The load factor is equal to the ratio of total compensation (CMU2010000520000D) over wages and salaries (CMU2020000520000D) from 2023 or \$37.92 divided by \$25.61, or 1.48. The loaded wage is the mean wage multiplied by the load factor. The loaded wage, \$125.56, equals \$84.84 multiplied by 1.48. Series are from the Bureau of Labor Statistics, Employer Cost for Employee Compensation for Private Industry Workers, Transportation and Material Moving.

TABLE 12—COST TO FOREIGN INDUSTRY OVER A 10-YEAR PERIOD—Continued

Year	Annual undiscounted cost (\$)	Total, discounted (\$)	
		3%	7%
4	15,265	13,563	11,646
5	15,265	13,168	10,884
6	15,265	12,785	10,172
7	15,265	12,412	9,507
8	15,265	12,051	8,885
9	15,265	11,700	8,303
10	15,265	11,359	7,760
Total	152,654	130,217	107,218
Annualized .....	.....	15,265	15,265

Cost Savings From Property Damage Threshold Update

As a supplement to the reporting change for foreign MODUs, FOFs, and vessels in this final rule, the Coast Guard will also update the property damage threshold for reporting a marine casualty under 33 CFR 146.30 from \$25,000 to \$75,000 to align it with the threshold listed in 46 CFR 4.05–1. The threshold in 46 CFR part 4 was previously updated to \$75,000 in the 2018 Final Rule.²⁸ Raising the threshold for reportable property damage will decrease the number of marine casualties reported, since more damage will have to be incurred to meet the reportable threshold. The decrease in reports from the threshold update will mitigate the increase in reports generated by the cost section of this rulemaking. In the following analysis, we apply the updated damage threshold

of \$75,000 to reports submitted for fixed OCS facilities under 33 CFR part 146 as well as to the estimated increase of 75 marine casualty reports, which used the \$25,000 threshold when reported. Fixed OCS facilities were not included in the analysis of the 2018 Final Rule. So, the reduction in reports from fixed OCS reporting facilities was never estimated.²⁹

To estimate the decrease in reports, the Coast Guard identified marine casualty reports submitted in the last 8 years that were generated because of property damage alone and would no longer meet the updated higher damage threshold for reporting. These are marine casualty reports with property damage between the threshold of \$25,000 and the threshold of \$75,000. We did not include fatality or injury incidents, as these types of incidents are reportable regardless of property damage.

The Coast Guard identified 41 total reports submitted for MODUs, FOFs, and vessels currently reporting under 33 CFR part 146, generated because of property damage between \$25,000 and \$75,000, and between \$100,000 and \$200,000 for serious marine incidents, for an 8-year average of 7 reports annually. We then apply the same assumption that 10 percent of marine casualty reports have an additional burden hour response of 10 hours to account for additional review time. We use the same assumed burden hour and wage used above for marine casualty reports, with a corresponding loaded wage rate of \$69.60. Table 13 shows how these assumptions generate a total annual cost savings of about \$1,743 that can be applied to the increased costs described in the Costs from Increased Reporting section to reduce net costs.

TABLE 13—DECREASED REPORTING COSTS FOR MODUS, FOFs, AND VESSELS MOVING TO TITLE 46 OF THE CFR

	Estimated responses that will no longer meet reporting threshold	Burden hours per response	Annual hour burden	Wage rate	Annual cost saved
	(A)	(B)	(C) = (A) × (B)	(D)	(E) = (C) × (D)
Decrease from Property Damage Threshold	(7)	1	(7)	\$69.60	– \$487
Additional Burden for 10% of Respondents	(1)	10	(10)	125.56	– 1,256
Total Cost Saved .....	.....	.....	.....	.....	– 1,743

Table 14 shows how this annual savings of –\$1,743 generates –\$12,241

in cost savings over 10 years in 2023 dollars, discounted at 7 percent.

²⁸ “Marine Casualty Reporting Property Damage Thresholds” (83 FR 11889, March 19, 2018).

²⁹ Ibid. See page 11891 of under “E. Amending the Dollar Amount Thresholds for Outer

Continental Shelf Casualty Reporting in Title 33 of the CFR.”

TABLE 14—COST SAVINGS TO MODUS, FOFs, AND VESSELS OVER A 10-YEAR PERIOD

Year	Annual undiscounted cost (\$)	Total, discounted (\$)	
		3%	7%
1	–\$1,743	–\$1,692	–\$1,629
2	–1,743	–1,643	–1,522
3	–1,743	–1,595	–1,423
4	–1,743	–1,549	–1,330
5	–1,743	–1,503	–1,243
6	–1,743	–1,460	–1,161
7	–1,743	–1,417	–1,085
8	–1,743	–1,376	–1,014
9	–1,743	–1,336	–948
10	–1,743	–1,297	–886
Total	–17,429	–14,867	–12,241
Annualized .....	.....	–1,743	–1,743

For fixed OCS facilities, we identified three reports generated because of property damage between \$25,000 and \$75,000, and between \$100,000 and \$200,000 for serious marine incidents, and applied the same assumption that

10 percent of marine casualty reports have an additional burden hour response of 10 hours to account for additional review time. Since we assume any fraction of a report will be a whole report, we round the 8-year

average of 0.4 up to one report. Table 15 shows how we use the same burden hour and wage assumptions as above to generate cost savings of \$1,534 annualized, which reduces the net cost of this final rule.

TABLE 15—DECREASED REPORTING COSTS FOR FIXED OCS FACILITIES TO U.S. INDUSTRY

	Estimated responses that will no longer meet reporting threshold	Rounding up to nearest whole number	Burden hours per response	Annual hour burden	Wage rate (\$)	Annual cost saved (\$)
		(A)	(B)	(C) = (A) × (B)	(D)	(E) = (C) × (D)
Decrease from Property Damage Threshold	–4	–4	1	–4	\$69.60	–\$278
Additional Burden for 10% of Respondents	–0.4	–1	10	–10	125.56	–1,256
Total Cost Saved .....	.....	.....	.....	.....	.....	–1,534

Table 16 shows how this annualized cost-savings of \$1,534 generates \$10,775 in cost savings over a 10-year period.

TABLE 16—COST SAVINGS TO FIXED OCS FACILITIES OVER A 10-YEAR PERIOD TO U.S. INDUSTRY

Year	Annual undiscounted cost	Total, discounted	
		3%	7%
1	–\$1,534	–\$1,489	–\$1,434
2	–1,534	–1,446	–1,340
3	–1,534	–1,404	–1,252
4	–1,534	–1,363	–1,170
5	–1,534	–1,323	–1,094
6	–1,534	–1,285	–1,022
7	–1,534	–1,247	–955
8	–1,534	–1,211	–893
9	–1,534	–1,176	–834
10	–1,534	–1,141	–780
Total	–15,340	–13,086	–10,775
Annualized .....	.....	–1,534	–1,534

Together, these cost savings to industry total – \$3,277 = (\$1,743+\$1,534) annually. Table 17 shows how these annual savings generate \$23,016 in cost savings in 2023

dollars to industry over 10 years discounted at 7 percent, or \$3,277 annualized. We estimate this final rule generates \$0.0029 million dollars in annualized cost savings at a 7-percent

discount rate, discounted relative to year 2024, over a perpetual time horizon.

TABLE 17—TOTAL COST SAVINGS TO FOREIGN AND U.S. INDUSTRIES

Year	Annual undiscounted savings	Total, discounted	
		3%	7%
1	–\$3,277	–\$3,181	–\$3,063
2	–3,277	–3,089	–2,862
3	–3,277	–2,999	–2,675
4	–3,277	–2,911	–2,500
5	–3,277	–2,827	–2,336
6	–3,277	–2,744	–2,184
7	–3,277	–2,664	–2,041
8	–3,277	–2,587	–1,907
9	–3,277	–2,511	–1,782
10	–3,277	–2,438	–1,666
Total	–32,769	–27,953	–23,016
Annualized .....	.....	–3,277	–3,277

Cost to the U.S. Government

The increase of 75 marine casualty reports will be mitigated by a total decrease of 11 reports: 7 fewer reports from the increased property damage threshold for MODUs, FOFs, and vessels, and 4 fewer reports from the update to fixed OCS facilities for a net

increase of 64 reports (75–11).

Following the methodology in appendix B of COI number 1625–0001, we do not assume that the 10 percent of reports that take longer to prepare for submission will take longer for the Coast Guard to review. The burden-hour established in the COI already accounts for variance in the time to review

marine casualty reports of different complexity and severity.

We assume there is 1 hour of processing time at a GS–9 wage of \$58.08 for each marine casualty report.³⁰ For the 64 additional responses, there is a total annual cost of \$3,717, as shown in table 18.

TABLE 18—COST TO THE U.S. GOVERNMENT

Cost category	Reponses	Burden hours per response	Annual hours	Wage rate	Annual cost
Processing Marine Casualty Reports	64	1	64	\$58.08	\$3,717
Total Annual Cost .....	.....	.....	.....	.....	3,717

Table 19 shows how the annualized cost of \$3,717 generates a total cost of \$26,107 over a 10-year period.

TABLE 19—TOTAL COST TO THE U.S. GOVERNMENT OVER A 10-YEAR PERIOD

Year	Annual undiscounted cost	Total, discounted (\$)	
		3%	7%
1	\$3,717	\$3,609	\$3,474
2	3,717	3,504	3,247
3	3,717	3,402	3,034
4	3,717	3,302	2,836
5	3,717	3,206	2,650
6	3,717	3,113	2,477
7	3,717	3,022	2,315
8	3,717	2,934	2,163

³⁰ Casualty reports are reviewed at Coast Guard Headquarters and the 2020 Washington, DC locality wage of \$34.24 for a GS–9, Step 5, employee is used (www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/DCB_h.pdf; accessed 01/21/2026). The load factor is 1.70

(rounded) estimated by dividing \$67.00 average total compensation per hour by \$39.50 average hourly wage from tables 4 and 2, respectively, of the 2017 Congressional Budget Office report, “Comparing the Compensation of Federal and Private-Sector Employees 2011–2015”

(www.cbo.gov/system/files/115th-congress-2017-2018/reports/52637-federalprivatepay.pdf; accessed 01/21/2026). The loaded wage is the mean wage multiplied by the load factor. The loaded wage, \$58.08, equals \$34.24 multiplied by 1.6962.

TABLE 19—TOTAL COST TO THE U.S. GOVERNMENT OVER A 10-YEAR PERIOD—Continued

Year	Annual undiscounted cost	Total, discounted (\$)	
		3%	7%
9	3,717	2,849	2,022
10	3,717	2,766	1,890
Total	37,170	31,707	26,107
Annualized .....	.....	3,717	3,717

Net Cost

The net cost of this final rule is
\$15,705 = [(\$15,265 + \$3,717) –

\$3,277]. Table 20 shows the sum of the
net costs over 10 years for a total net
cost of \$110,309, or \$15,705 annualized.

TABLE 20—TOTAL NET COSTS TO FOREIGN AND U.S. INDUSTRY AND U.S. GOVERNMENT

Year	Cost to industry	Cost to U.S. Government (\$)	Cost savings to industry (\$)	Net cost (\$)	Total, discounted (\$)	
					3%	7%
1	\$15,265	\$3,717	\$(3,277)	\$15,705	\$15,248	\$14,678
2	15,265	3,717	(3,277)	15,705	14,804	13,718
3	15,265	3,717	(3,277)	15,705	14,373	12,820
4	15,265	3,717	(3,277)	15,705	13,954	11,982
5	15,265	3,717	(3,277)	15,705	13,548	11,198
6	15,265	3,717	(3,277)	15,705	13,153	10,465
7	15,265	3,717	(3,277)	15,705	12,770	9,781
8	15,265	3,717	(3,277)	15,705	12,398	9,141
9	15,265	3,717	(3,277)	15,705	12,037	8,543
10	15,265	3,717	(3,277)	15,705	11,686	7,984
Total .....	.....	.....	.....	157,055	133,971	110,309
Annualized .....	.....	.....	.....	.....	15,705	15,705

Benefits

Through this final rule, the Coast Guard updates casualty reporting regulations under 33 CFR part 146, issued in 1955, to keep up with technology and recognize that MODUs and FOFs are more like oceangoing vessels than the fixed OCS facilities the regulations were originally written to address. We harmonize reporting requirements for all foreign MODUs, FOFs, and vessels to the same reporting standards as their U.S. counterparts. By requiring foreign entities to report maritime incidents under a more stringent regime and aligning their costs with their U.S. counterparts, these changes will enhance consistency on the OCS; improve awareness in the maritime domain through more complete casualty data; and facilitate better contingency planning, risk evaluation, and trend identification.

Coast Guard District, Area, Headquarters, District, and local offices, and the OCS NCOE analyze and share accident information. In addition, volume V of the Coast Guard “Marine

Safety Manual”³¹ contains guidance about broad distribution of accident and inspection information when potentially hazardous or systemic problems are found with a vessel, operator, or type of equipment. This data helps the Coast Guard identify and address safety issues proactively while improving the accuracy of the Coast Guard’s decision making and policy development. Therefore, we believe a qualitative benefit of this final rule will come from the Coast Guard receiving reports of casualties that we would not otherwise receive.

Alternatives Considered

(1) No Action

Keeping current reporting requirements would perpetuate reporting requirement inconsistencies between foreign- and U.S. MODUs, FOFs, and vessels engaged in an OCS activity. The resulting information gap prevents the Coast Guard from maintaining domain awareness on the OCS. Under the status quo, near misses

on foreign MODUs, FOFs, and vessels would continue to not be reported to the Coast Guard, unlike they are on U.S. MODUs, FOFs, and vessels.

Although there is no increased reporting cost with this alternative, it perpetuates information gaps in the maritime domain. Therefore, the Coast Guard did not choose this alternative.

(2) Lower Reporting Requirements for U.S. MODUs, FOFs, and Vessels To Harmonize Reporting Requirements Under 33 CFR part 146

Rather than alter foreign reporting to harmonize with reporting in 46 CFR part 4, the Coast Guard could alter all U.S. reporting in 46 CFR part 4 to harmonize with 33 CFR part 146. This will reduce the types of triggers that generate a reportable marine casualty and likely decrease the number of reports submitted to the Coast Guard. While reduced reporting would be a cost saving to industry, it could also reduce the Coast Guard’s maritime domain awareness and increase risk to maritime safety and the marine environment. This risk is exemplified in

³¹ www.uscg.mil/guidance; accessed 01/21/2026.

the April 2011 U.S. Coast Guard *Report of Investigation into the Circumstances Surrounding the Explosion, Fire, Sinking and Loss of Eleven Crew Members Aboard the Mobile Offshore Drilling Unit Deepwater Horizon in the Gulf of Mexico, April 20–22, 2020* (Volume I), which is available in the docket for this final rule. The *Deepwater Horizon* report notes on page 106 that “[t]he Coast Guard casualty reporting regulations for foreign-flagged MODU’s engaging in U.S. OCS activities are insufficient.”

For instance, under this alternative, the Coast Guard would not receive reports from vessels about casualties such as the flooding and total loss of power events the *Deepwater Horizon* MODU experienced in 2008, allision, collision, grounding, or significant harm to the environment. These types of casualties are often associated with injury, fatality, and property damage and losing awareness of these incidents would likely decrease safety on the OCS. This alternative would also undermine the Coast Guard’s ability to provide effective oversight of rapidly developing technology and to help manage risks to personnel, property, and the environment as the energy development industry moves further

offshore. In this environment, FOFs are typical and, as explained in Section V. Discussion of Comments and Changes from the SNPRM of this preamble, the current regulations in 33 CFR part 146 were originally developed and applied to fixed OCS facilities operating closer to land. Therefore, the Coast Guard did not choose this alternative.

(3) Alter Reporting Requirements on Foreign MODUs, FOFs, and Vessels To Harmonize With Reporting Requirements Under 46 CFR Part 4 (Chosen Action)

The impact of altering the reporting requirements on foreign MODUs, FOFs, and vessels engaged in an OCS activity to harmonize with 46 CFR part 4 is demonstrated in the previous analysis. The Coast Guard chose this alternative over no action or reducing reporting because it increases domain awareness at no additional cost to U.S. industry while not losing situational awareness on particular casualty types as with alternative two.

B. Small Entities

Under the Regulatory Flexibility Act 5 U.S.C. 601–612, we have considered whether this final rule will have a significant economic impact on a

substantial number of small entities. 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.

The analyses done in both the 2014 NPRM and the SNPRM showed that the estimated impacts of this rulemaking will not have a significant economic impact on a substantial number of small entities. In this final rule, we show that this continues to be true with the final estimated costs. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Operations on the OCS encompass many different North American Industry Classification System (NAICS) codes. In a random sample of 80 foreign entities taken from a population of 99 operators for this regulatory analysis, 15 different NAICS codes applied.³² Therefore, the standard for a small business in this sample has a wide range, with revenue thresholds ranging from \$16.5 million to \$1,250 million, and employee thresholds ranging from 100 to 1,000 employees.

TABLE 21—APPLICABLE NAICS CODES OF OPERATORS

NAICS code	Description	Number of operators classified	Size standard
114111 ...	Finfish Fishing	1	1,000 Employees.
212111 ...	Oil & Gas Exploration and Services	1	1,000 Employees.
213111 ...	Drilling Oil and Gas Wells	11	1,000 Employees.
213112 ...	Support Activities for Oil and Gas Operations	4	\$41,500,000.
236115 ...	New Single-Family Housing Construction (Excludes For-Sale Builders).	1	\$39,500,000.
237110 ...	Water and Sewer Line and Related Structures Construction	8	\$39,500,000.
238910 ...	Site Preparation Contractors	1	\$16,500,000.
333132 ...	Oil and Gas Field Machinery and Equipment Manufacturing	2	\$1,250,000,000.
423990 ...	Other Miscellaneous Durable Goods Merchant Wholesalers	1	100 Employees.
424460 ...	Fish & Seafood Merchant Wholesalers	1	100 Employees.
441222 ...	Boat Dealers	2	\$35,000,000.
524298 ...	All Other Insurance Related Activities	4	\$16,500,000.
541330 ...	Engineering Services	2	\$16,500,000.
999990 ...	Unclassified	1	N/A.

In this sample of 80 foreign entities, 63 had a known revenue or employee count. Of these 63 foreign entities, 24 had annual revenues less than the threshold for a small business of that NAICS code. Five entities had fewer employees than the threshold for a small business of that NAICS code. In

total, 29 entities of the 80 (36 percent) were small businesses.

The primary cost of this final rule will be the additional marine casualty reports submitted by foreign businesses operating foreign MODUs, FOFs, and vessels on the OCS. The Coast Guard estimates the total annual cost will be \$20,354 from an increase of 75 reports.

While this cost will be distributed across the entire industry, we do not know the exact distribution, since the number of marine casualty reports per operator depends on that operator’s specific behavior, which can change over time. In the last 10 years, the average number of reports per owner was 1.03 (compared to the 5-year

³² Not all operators had an available NAICS code; those that did not were assumed to be small entities.

average of 1.64 from table 4). Assuming that trend continues, no single operator will generate more than two additional reports (rounding up) under this final rule.

For this small entity analysis, we show the possible impact of two reports

per operator at \$407. This assumes the total average cost per report is \$203.54 (\$20,354 divided by 75 reports) to account for variance in the complexity of a report. To have a significant impact on an individual company under SBA standards, the cost will need to

represent more than 1 percent of an individual company's total revenue. In the sample of companies with known revenue, none had an impact over 1 percent. The highest impact is 0.51 percent.

TABLE 22—ENTITIES WHERE COST REPRESENTS MORE THAN 1 PERCENT OF TOTAL REVENUES

	With revenue impact greater than 1%	Total
Number of Operators	0	80
% of small entities with known revenue	0%	24
% of entities with known revenue	0%	62

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offer to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this final rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This final rule calls for a revised collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

This action contains proposed amendments to the existing information collection requirements previously approved under OMB Control Number

1625–0001.³³ This amendment will increase the number of affected facilities and the burden for the existing COI number as described below.

Title: Report of Marine Casualty Information and Chemical Testing of Commercial Vessel Personnel.

OMB Control Number: 1625–0001.

Summary of the COI: This collection requires responses such as the preparation of written notification by completing a CG–2692 (series) form and the processing of records. We use this information to identify pertinent safety lessons and to initiate appropriate steps for reducing the likelihood of similar accidents in the future. The COI will aid the regulated public in assuring safe practices.

Need for Information: These reporting requirements permit the Coast Guard to investigate marine casualties, as required by 46 U.S.C. 6301, to determine the causes of casualties and whether existing safety standards are adequate or new laws or regulations need to be developed. Receipt of a marine casualty report is often the only way in which the Coast Guard becomes aware of a marine casualty. It is, therefore, a necessary first step that provides the Coast Guard with the opportunity to determine the extent to which a casualty will be investigated.

Proposed Use of Information: In the short term, the information provided in the report may also trigger corrective safety actions addressing immediate hazards or defective conditions, further investigations of mariner conduct or professional competence, or civil or criminal enforcement actions by the Coast Guard, other Federal agencies, or State and local authorities. In the long term, the information contained in the report becomes part of the Coast Guard's MISLE database. The Coast Guard uses

the information in the MISLE database to identify safety problems and long-term trends, publish casualty summaries and annual statistics for public use, determine whether additional safety oversight or regulation is needed, measure the effectiveness of existing regulatory programs, and better focus the Coast Guard's limited marine safety resources.

Description of the Respondents: The respondents are the owners, agents, masters, operators, or persons in charge that notify the nearest Coast Guard Sector Office, Marine Safety Unit, Coast Guard District or Area Offices whenever a vessel or facility is involved in a marine casualty.

Number of Respondents: We estimate an increase of 64 respondents for a written report of marine casualty. This increases the total number of respondents for reporting marine casualties from 5,617 to 5,681.

Frequency of Response: The notification response is required only if a marine casualty occurs as defined in 46 CFR 4.03–2 and 46 CFR 4.05–1.

Burden of Response: For each response, we estimate that it takes 1 hour for a vessel crewmember to complete all the necessary forms (CG–2692 series). In addition, some marine casualty forms may undergo additional processing by the respondents. To account for this additional time, 10 percent of the forms submitted have 10 hours of additional burden.³⁴

³⁴ The Coast Guard estimates that it takes up to 1 hour to complete the necessary CG–2692 (series) form. However, we received public comments in 2013 on COI number 1625–0001 stating that some submitters take more time—up to 8 to 12 hours—to complete the form. See <https://www.regulations.gov/docket/USCG-2011-0710>; accessed 01/21/2026. The reason for this difference is that some entities have the form(s) reviewed by shore-side personnel, such as an attorney, prior to submission to the Coast Guard. The practice of having a form reviewed by an attorney is not required by Coast Guard regulation. While we believe that this does not typically occur, we have

³³ www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=1625-0001; accessed 01/21/2026.

Estimate of Total Annual Burden: We estimate an increase of 64 respondents for the 1-hour response of a written report of marine casualty. This increases the total burden hours for reporting marine casualties from 5,617 to 5,681 hours.

As required by 44 U.S.C. 3507(d), we will submit a copy of this final rule to OMB for its review of the COI.

You are not required to respond to a COI unless it displays a currently valid OMB control number. OMB has not yet completed its review of this collection. Before the Coast Guard may enforce new collection of information requirements introduced by this rule, OMB would need to approve the Coast Guard's request to collect that information. We will publish a **Federal Register** notice once OMB takes action on our request.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this final rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis follows.

Congress specifically granted the authority to regulate artificial islands, installations, and other devices permanently or temporarily attached to the OCS and in the waters adjacent thereto as it relates to the safety of life to the Secretary of the Department in which the Coast Guard is operating. Section 1333(d)(1) of Title 43 U.S.C. states that the Secretary "shall have the authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the artificial islands, installations, and other devices . . . as he may deem necessary."

As this final rule will improve the Coast Guard's ability to collect and analyze casualty data for incidents on the OCS to maintain and improve safety of life on OCS installations, it falls within the scope of authority Congress granted exclusively to the Secretary. This authority has been delegated to the Coast Guard and is exercised in this rulemaking, and the States may not regulate within this category of marine

casualty reporting. Therefore, this final rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this final rule will have implications for federalism under Executive Order 13132, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

F. Unfunded Mandates

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Although this final rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This final rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this final rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This final rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination

with Indian Tribal Governments) because it will 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.

K. Energy Effects

We have analyzed this final rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This final rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this final rule under Department of Homeland Security Management 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. 4321–4370(f)), 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. Our final Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

This final rule is categorically excluded under paragraphs L54 and L57

adjusted our burden estimate to account for the added review.

of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.³⁵ Paragraph L54 pertains to regulations which are editorial or procedural. Paragraph L57 pertains to regulations concerning the manning, documentation, admeasurement, inspection, and equipping of vessels. This final rule involves changing the reporting criteria for certain casualties that occur on the OCS for foreign MODUs, FOFs, and vessels engaged in OCS activities, and better harmonizes the casualty reporting requirements with those in place for similar U.S. MODUs, FOFs, and vessels. These changes promote the Coast Guard's marine safety mission.

List of Subjects

33 CFR Part 140

Continental shelf, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements.

33 CFR Part 146

Continental shelf, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 4

Administrative practice and procedure, Drug testing, Investigations, Marine safety, National Transportation Safety Board, Nuclear vessels, Radiation protection, Reporting and recordkeeping requirements, Safety, Transportation.

46 CFR Part 109

Marine safety, Occupational safety and health, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 140 and 146 and 46 CFR parts 4 and 109 as follows:

Title 33—Navigation and Navigable Waters

PART 140—GENERAL

- 1. The authority citation for part 140 is revised to read as follows:

Authority: 43 U.S.C. 1333, 1348, 1350, 1356; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4.

- 2. Revise § 140.201 to read as follows:

§ 140.201 General.

The Coast Guard investigates casualties occurring on the OCS including:

- (a) Casualties on floating OCS facilities, MODUs, and vessels as described in 46 CFR part 4;
- (b) Casualties on fixed OCS facilities as described in 33 CFR 146.30;
- (c) Oil spillage exceeding 200 barrels of oil in one occurrence during a 30-day period; and
- (d) Other injuries, casualties, accidents, complaints of unsafe working conditions, fires, pollution, and incidents occurring as a result of OCS activities as the Officer in Charge, Marine Inspection, deems necessary to promote the safety of life or property or protect the marine environment.

§ 140.203 [Amended]

- 3. Amend § 140.203 as follows:
- a. In paragraph (b) introductory text, remove the text “Geological Survey” and add, in its place, the text “Bureau of Safety and Environmental Enforcement”.
- b. In paragraph (b)(3), remove the text “examining” and add, in its place, the text “examining”.

PART 146—OPERATIONS

- 4. The authority citation for part 146 is revised to read as follows:

Authority: 43 U.S.C. 1333, 1348, 1350, 1356; 46 U.S.C. 70001, 70116; sec. 109, Pub. L. 109–347, 120 Stat. 1884; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4.

- 5. Revise § 146.1 to read as follows:

§ 146.1 Applicability.

Unless otherwise specified, the provisions of this subpart apply to OCS facilities except mobile offshore drilling units.

- 6. Revise § 146.30 to read as follows:

§ 146.30 Notice of casualties.

(a) The owner, operator, or person in charge of a fixed OCS facility must ensure that the Coast Guard is notified as soon as possible after a casualty occurs, and by the most rapid means available, of each casualty involving the facility which results in:

- (1) Death;
- (2) Injury to five or more persons in a single incident;
- (3) Damage affecting the usefulness of primary lifesaving or firefighting equipment;
- (4) Injury causing any person to be incapacitated for more than 72 hours; or
- (5) Damage to the facility exceeding \$75,000 resulting from a collision by a vessel with the facility.

(b) The notice required by paragraph (a) of this section must identify the person giving the notice and the facility involved and describe, insofar as practicable, the nature of the casualty and the extent of injury to personnel and damage to property.

(c) Damage costs referred to in paragraph (a)(5) of this section include the cost of labor and material to restore the facility to the service condition which existed prior to the casualty, but does not include the cost of salvage, cleaning, or gas freeing of the facility.

(d) The owner, operator, or person in charge of any floating OCS facility must report casualties in accordance with 46 CFR part 4.

(e) The owner, operator, or person in charge of a foreign floating OCS facility must include in the written casualty report required under 46 CFR 4.05–12 information relating to alcohol or drug involvement.

- 7. Revise subpart D to read as follows:

Subpart D—Vessels, including MODUs—Notice of Casualty

Sec.

146.301 Applicability.

146.303 Notice and written report of casualties.

§ 146.301 Applicability.

This subpart applies to vessels, including MODUs, engaged in OCS activities other than U.S. vessels already required to report marine casualties under 46 CFR part 4 or subpart D of 46 CFR part 109.

§ 146.303 Notice and written report of casualties.

The owner, operator, or person in charge of a vessel, including a MODU, engaged in OCS activities must ensure compliance with the notice of casualty requirements in 46 CFR part 4.

Title 46—Shipping

PART 4—MARINE CASUALTIES AND INVESTIGATIONS

- 8. The authority citation for part 4 is revised to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 2103, 2303a, 2306, 6101, 6301, 6305, 56311, and 70034; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4. Subpart 4.40 issued under 49 U.S.C. 1903(a)(1)(E).

- 9. Revise § 4.01–1 to read as follows:

§ 4.01–1 Scope of regulation.

The regulations in this part govern marine casualty reporting, investigations of marine casualties, and submission of reports designed to

³⁵ https://www.fema.gov/sites/default/files/2020-07/fema_dhs_instruction-manual_023-01-001-01.pdf; accessed 01/21/2026.

increase the likelihood of timely assistance to floating outer continental shelf (OCS) facilities, mobile offshore drilling units (MODUs), and other vessels in distress.

■ 10. Revise § 4.01–3(c) to read as follows:

§ 4.01–3 Reporting exclusion.

* * * * *

(c) Vessels, floating OCS facilities, and MODUs are excluded from the requirements of § 4.05–1(a)(5) and (6) with respect to the death or injury of shipyard or harbor workers when such accidents are not the result of either a reportable casualty (for example, collision) or a reportable equipment casualty (for example, cargo boom failure) and are subject to the reporting requirements of Occupational Safety and Health Administration (OSHA) under 29 CFR part 1904.

* * * * *

■ 11. Add § 4.03–0 to subpart 4.03 to read as follows:

§ 4.03–0 Definitions that apply to this subpart.

This subpart contains terms defined for purposes of this part. Other definitions used in this part are in 33 CFR 140.10.

■ 12. Revise § 4.03–1 to read as follows:

§ 4.03–1 Marine casualty or accident.

Marine casualty or accident means—

(1) Any casualty or accident involving any vessel other than a public vessel that—

(i) Occurs upon the navigable waters of the United States, its territories or possessions;

(ii) Involves any U.S. vessel wherever such casualty or accident occurs; or

(iii) With respect to a foreign tank vessel operating in waters subject to the jurisdiction of the United States, including the Exclusive Economic Zone (EEZ), involves significant harm to the environment or material damage affecting the seaworthiness or efficiency of the vessel.

(2) Any casualty or accident involving a vessel, floating OCS facility, or MODU as defined in 33 CFR part 140, when they are engaged in an OCS activity.

(3) The term “marine casualty or accident” applies to events including, but not limited to:

- (i) Any fall overboard, injury, or loss of life of any person;
- (ii) Grounding;
- (iii) Stranding;
- (iv) Foundering;
- (v) Flooding;
- (vi) Collision;
- (vii) Allision;
- (viii) Explosion;

(ix) Fire;

(x) Reduction or loss of electrical power, propulsion, or steering capabilities;

(xi) Failures or occurrences, regardless of cause, which impair any aspect of operation, components, or cargo;

(xii) Any other circumstance that might affect or impair seaworthiness, efficiency, or fitness for service or route;

(xiii) Any incident involving significant harm to the environment;

(xiv) Any occurrences of injury or loss of life to any person while diving from a vessel, and using underwater breathing apparatus; or

(xv) Any incident described in § 4.05–1(a).

§ 4.03–2 [Amended]

■ 13. Amend § 4.03–2 as follows:

■ a. In the introductory text, after the text “vessel in commercial service” add the text “, floating OCS facility, or MODU as described in § 4.03–1(1) and (2)”.

■ b. In paragraph (a)(2), after the text “a vessel in commercial service,” add the text “floating OCS facility, or MODU”.

■ c. In paragraph (a)(4), after the text “vessel” add the text “or MODU”.

■ 14. Revise § 4.03–65(c)(1), (6), and (7), to read as follows:

§ 4.03–65 Significant harm to the environment.

* * * * *

(c) * * *

(1) Vessel, floating OCS facility, or MODU location and proximity to land or other navigational hazards;

* * * * *

(6) The nature of damage to the vessel, floating OCS facility, or MODU; and

(7) Failure or breakdown aboard the vessel, floating OCS facility, or MODU, its machinery, or equipment.

■ 15. Revise the heading of subpart 4.04 to read as follows:

Subpart 4.04—Notice of Potential Casualty

■ 16. Revise § 4.04–1 to read as follows:

§ 4.04–1 Reports of potential casualty.

(a) An owner, charterer, managing operator, or agent of a vessel, floating OCS facility, or MODU to which this part applies must immediately notify either of the following Coast Guard officers if there is reason to believe the vessel, floating OCS facility, or MODU is lost or imperiled:

- (1) The Coast Guard district rescue coordination center (RCC) cognizant over the area the vessel, floating OCS facility, or MODU was last operating; or
- (2) The Coast Guard search and rescue authority nearest to where the vessel,

floating OCS facility, or MODU was last operating.

(b) Reasons for belief that a vessel, floating OCS facility, or MODU is in distress include, but are not limited to, lack of communication with or nonappearance of the vessel, floating OCS facility, or MODU.

■ 17. Revise § 4.04–3 to read as follows:

§ 4.04–3 Reports of lack of communication.

The owner, charterer, managing operator, or agent that is required to report to the United States Flag Merchant Vessel Location Filing System under the authority of section 212(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122a), must immediately notify the Coast Guard if more than 48 hours have passed since receiving communication. This notification must be given to the Coast Guard district RCC cognizant over the last known operating area.

■ 18. Amend § 4.04–5 by revising the introductory text and paragraph (a) to read as follows:

§ 4.04–5 Substance of reports.

The owner, charterer, managing operator, or agent, notifying the Coast Guard under § 4.04–1 or § 4.04–3, must:

(a) Provide the name and identification number of the vessel, floating OCS facility, or MODU, the names of the individuals on board, and other information that may be requested by the Coast Guard (when providing the names of the individuals on board for a passenger vessel, the list of passengers need only meet the requirements of 46 U.S.C. 3502); and

* * * * *

■ 19. Amend § 4.05–1 by revising paragraph (a) to read as follows:

§ 4.05–1 Notice of marine casualty.

(a) Immediately after addressing resultant safety concerns, the owner, agent, master, operator, or person in charge, must notify the nearest Coast Guard units, to include Sector, Marine Safety Unit, Coast Guard District or Area Offices whenever a vessel, floating OCS facility, or MODU to which this part applies is involved in a marine casualty consisting of—

(1) An unintended grounding, or an unintended strike of (allision with) a bridge;

(2) An intended grounding, or an intended strike of a bridge, that creates a hazard to navigation, the environment, or the safety of a vessel, floating OCS facility, or MODU that meets any criterion of paragraphs (a)(3) through (8) of this section;

(3) A loss of main propulsion, primary steering, or any associated component

or control system that reduces the maneuverability of the vessel, floating OCS facility, or MODU;

(4) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route, including but not limited to fire, flooding, or failure of or damage to fixed fire-extinguishing systems, lifesaving equipment, auxiliary power-generating equipment, or bilge-pumping systems;

(5) A loss of life;

(6) An injury that requires professional medical treatment (treatment beyond first aid) and, if the person is engaged or employed on board a vessel in commercial service, floating OCS facility, or MODU in commercial service, that renders the individual unfit to perform their routine duties; or

(7) An occurrence causing property damage in excess of \$75,000, this damage including the cost of labor and material to restore the property to its condition before the occurrence, but not including the cost of salvage, cleaning, gas-freeing, drydocking, or demurrage.

(8) An occurrence involving significant harm to the environment as defined in § 4.03–65.

* * * * *

■ 20. Revise § 4.05–5 to read as follows:

§ 4.05–5 Substance of marine casualty notice.

The notice required in § 4.05–1 must include the name and official number of the vessel, floating OCS facility, or MODU involved, the name of the owner or agent, the nature and circumstances of the casualty, the locality in which it occurred, the nature and extent of injury to persons, and the damage to property.

■ 21. Amend § 4.05–15 by revising paragraph (a) to read as follows:

§ 4.05–15 Voyage records, retention of.

(a) The owner, agent, master, or person in charge of any vessel, floating OCS facility, or MODU involved in a marine casualty must retain such voyage records as are normally maintained, such as both rough and smooth deck and engine room logs, bell books, navigation charts, navigation work books, compass deviation cards, gyro records, stowage plans, records of draft, aids to mariners, night order books, radiograms sent and received, radio logs, crew and passenger lists, articles of shipment, official logs, and other material which might be of assistance in investigating and determining the cause of the casualty. The owner, agent, master, other officer, or person responsible for the custody thereof, must make these records available upon request, to a duly authorized investigating officer, administrative law

judge, officer, or employee of the Coast Guard.

* * * * *

■ 22. Revise § 4.05–20 to read as follows:

§ 4.05–20 Report of accident to aid to navigation.

Whenever a vessel, floating OCS facility, or MODU collides with a buoy, or other aid to navigation under the jurisdiction of the Coast Guard, or is connected with any such collision, the person in charge must report the accident to the nearest Officer in Charge, Marine Inspection. No report on Form CG–2692 is required unless one or more of the results listed in § 4.05–1 occur.

■ 23. Revise the heading of subpart 4.06 to read as follows:

Subpart 4.06—Mandatory Chemical Testing Following Serious Marine Incidents Involving Vessels in Commercial Service, Floating OCS Facilities, or MODUs in Commercial Service

■ 24. Amend § 4.06–1 by revising paragraphs (b) and (e) to read as follows:

§ 4.06–1 Responsibilities of the marine employer.

* * * * *

(b) When a marine employer determines that a casualty or incident is, or is likely to become, a serious marine incident, the marine employer must take all practicable steps to have each individual engaged or employed on board the vessel, floating OCS facility, or MODU who is directly involved in the incident chemically tested for evidence of drug and alcohol use as required in this part.

* * * * *

(e) The marine employer must ensure that all individuals engaged or employed on board a vessel, floating OCS facility, or MODU are fully informed about the requirements of this subpart, and that appropriate vessel personnel are trained as necessary in the practical applications of these requirements.

§ 4.06–3 [Amended]

■ 25. Amend § 4.06–3 in paragraphs (a)(1) introductory text and (b)(1) introductory text by, after the text “vessel” adding the text “, floating OCS facility, or MODU”.

■ 26. Amend § 4.06–5 by revising paragraphs (a) and (b) to read as follows:

§ 4.06–5 Responsibility of individuals directly involved in serious marine incidents.

(a) Any individual engaged or employed on board a vessel, floating OCS facility, or MODU who is determined to be directly involved in an SMI must provide a blood, breath, saliva, or urine specimen for chemical testing when directed to do so by the marine employer or a law enforcement officer.

(b) If the individual refuses to provide a blood, breath, saliva, or urine specimen, this refusal must be noted on Forms CG–2692 and CG–2692B and in the vessel's official log book, if a log book is required. The marine employer must remove the individual as soon as practical from duties that directly affect the safe operation of the vessel, floating OCS facility, or MODU.

* * * * *

■ 27. Amend § 4.06–15 by:

■ a. In paragraphs (a)(1) and (3) and (b)(2), after the text “vessel” adding the text “, floating OCS facility, or MODU”; and

■ b. Adding paragraph (b)(3).

The addition reads as follows:

§ 4.06–15 Accessibility of chemical testing devices.

* * * * *

(b) * * *

(3) The owner, operator, or person in charge of a foreign vessel, floating OCS facility, or MODU who is unable to meet the drug testing requirements of 49 CFR part 40 must obtain approval for an alternative drug testing process from the U.S. Coast Guard Drug and Alcohol Prevention and Investigation Program Manager via email at DAPI@USCG.MIL before engaging in OCS activities.

■ 28. Amend § 4.06–30 by revising paragraph (a) to read as follows:

§ 4.06–30 Specimen collection in incidents involving fatalities.

(a) When an individual engaged or employed on board a vessel, floating OCS facility, or MODU dies as a result of a serious marine incident, blood and urine specimens must be obtained from the remains of the individual for chemical testing, if practicable to do so. The marine employer must notify the appropriate local authority, such as the coroner or medical examiner, as soon as possible, of the fatality and of the requirements of this subpart. The marine employer must provide the specimen collection and shipping kit and request that the local authority assist in obtaining the necessary specimens. When the custodian of the remains is a person other than the local authority, the marine employer must

request the custodian to cooperate in obtaining the specimens required under this part.

* * * * *

■ 29. Amend § 4.06–60 by revising paragraph (a) to read as follows:

§ 4.06–60 Submission of reports and test results.

(a) Whenever an individual engaged or employed on a vessel, floating OCS facility, or MODU is identified as being directly involved in a serious marine incident, the marine employer must complete Form CG–2692B (Report of Mandatory Chemical Testing Following a Serious Marine Incident Involving Vessels in Commercial Service).

* * * * *

§ 4.07–45 [Amended]

■ 30. Amend § 4.07–45 by removing the word “shall” and adding, in its place, the word “must”.

PART 109—OPERATIONS

■ 31. The authority citation for part 109 is revised to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 6101, 10104; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4.

■ 32. Revise § 109.411 to read as follows:

§ 109.411 Notice and reporting of casualty.

The owner, operator, or person in charge of a mobile offshore drilling unit (MODU) regulated under this part must provide notice and report marine casualties in accordance with 46 CFR part 4.

Dated: June 25, 2026.

R.C. Compher,

Captain, U.S. Coast Guard, Assistant Commandant for Prevention Policy.

[FR Doc. 2026–13137 Filed 6–29–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–0568]

RIN 1625–AA00

Safety Zone; Aerial Drone Displays, Upper Bay, New York, NY

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for

navigable waters of the Upper New York Bay, in the vicinity of Ellis Island and Liberty Island. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with aerial drone displays. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector New York or their designated representative.

DATES: This rule is effective without actual notice from June 30, 2026 through July 20, 2026. For the purposes of enforcement, actual notice will be used from June 27, 2026, until June 30, 2026.

ADDRESSES: To view available documents, go to <https://www.regulations.gov> and search for USCG–2026–0568.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact MST1 Angelina Gerber, Sector New York Waterways Management Division, U.S. Coast Guard; telephone 718–801–2932, or email SectorNYWWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

Coast Guard regulations, 33 CFR 165.5(b), allow any person to request that a safety zone be established. Driven by Federal Aviation Administration (FAA) regulations restricting drone flights over human beings,¹ the Coast Guard has received numerous requests for safety zones over water from the sponsors of drone shows. In response to these requests, the Coast Guard proposed safety zone regulations in 2024 and noted that risks associated with drone shows include, but are not limited to, the hazard created by drones potentially falling from the sky and the hazard of collisions between drones and sailboat masts, or commercial vessel pilothouses. On August 23, 2024, the Coast Guard published final regulations titled Safety Zones; Aerial Drone Displays, Hudson and East Rivers, New York, NY, (89 FR 68102). That rule, which is codified at 33 CFR 166,

¹ Today, no person may operate a small, unmanned aircraft over a human being unless the operator satisfies FAA requirements at 14 CFR 107.39.

established specific areas of the Hudson and East Rivers where safety zones are enforced on the navigable waters beneath aerial drone displays.

Since then, Coast Guard Sector New York has supported 18 drone displays in these areas, demonstrating the continuing need for safety zones to protect persons, vessels, and the marine environment from potential hazards created by aerial drone displays. The Captain of the Port (COTP) New York has determined that these hazards extend to anyone within 500 yards of the area below the aerial drone displays. Furthermore, in May 2026, Coast Guard Sector New York received notification of the need for safety zones for multiple additional aerial drone displays (to be held as early as June 27, 2026) outside of the established safety zone areas in the Hudson and East Rivers; two of these are in the vicinity of Liberty Island and Ellis Island.

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 to take notice and comment on a request that the Coast Guard received in May to establish a safety zone which must be in place in late June.

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

III. Discussion of the Rule

This rule establishes a safety zone from June 27, 2026, through July 20, 2026. The Captain of the Port (COTP) will make notification of the exact dates and times in advance of each enforcement period to the local maritime community through marine broadcasts, local notice to mariners, or by an on-scene oral notice and signage. The safety zone will cover all waters of the Upper Bay in the vicinity of Ellis Island and Liberty Island formed within a polygon bound by the following coordinates in order: Point One at 40°41′26.35″ N, 074°03′17.73″ W, thence to Point Two at 40°41′02.07″ N, 074°02′24.83″ W, thence to Point Three at 40°41′35.58″ N, 074°02′02.95″ W, thence to Point Four at 40°42′05.26″ N, 074°01′57.11″ W, thence to Point Five at 40°42′30.35″ N, 074°02′03.73″ W; thence along the shoreline returning to Point One. These coordinates are based on the World Geodetic System (WGS 84)/North American Datum 83 (NAD 83).

Vessels and persons will not be allowed to enter the zone during this

time, unless authorized by the Captain of the Port.

IV. Regulatory Analyses

The Coast Guard developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below is a summary of the Coast Guard's 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

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

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

D. Unfunded Mandates Reform Act

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

E. Environment

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

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–0568 to read as follows:

§ 165.T01–0568 Safety Zone; Aerial Drone Displays, Upper Bay, New York, NY.

(a) *Location.* The following area is a designated zone in which a safety zone radius up to 500 yards will be established for drone displays. The establishment of a safety zone within the designated zone requires the coordinates defining the center of the safety zone to be within the boundaries of the zone described as follows: All waters of the Upper Bay in the vicinity of Ellis Island and Liberty Island formed

within a polygon bound by the following coordinates in order: Point One at 40°41'26.35" N, 074°03'17.73" W, thence to Point Two at 40°41'02.07" N, 074°02'24.83" W, thence to Point Three at 40°41'35.58" N, 074°02'02.95" W, thence to Point Four at 40°42'05.26" N, 074°01'57.11" W, thence to Point Five at 40°42'30.35" N, 074°02'03.73" W; thence along the shoreline returning to Point One. These coordinates are based on the World Geodetic System (WGS 84)/North American Datum 83 (NAD 83).

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

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

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (718) 354–4356. 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) *Effective dates and enforcement periods.* This rule is effective from June 27, 2026, through July 20, 2026. The COTP will make notification of the exact dates, times, and center point location of the 500-yard radius for each safety zone in advance of each enforcement period for the locations above in paragraph (a) of this section to the local maritime community through marine broadcasts, local notice to mariners, or by an on-scene oral notice and signage. Notification of the enforcement periods will also be provided in a future **Federal Register** document.

Jonathan A. Andrechik,

Captain, U.S. Coast Guard, Captain of the Port, Sector New York.

[FR Doc. 2026–13136 Filed 6–29–26; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180****[EPA-HQ-OPP-2021-0290; FRL-13187-01-OCSPP]****Chlormequat Chloride; Pesticide Tolerances****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This regulation modifies existing tolerances for residues of chlormequat chloride in or on barley, oats, triticale, and wheat grains; and in or on multiple food and livestock commodities that are identified and will be discussed in detail later in this document. Taminco US LLC, a subsidiary of Eastman Chemical Company, requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective June 30, 2026. Objections and requests for hearings must be received on or before August 31, 2026 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of this document).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2021-0290, is available at <https://www.regulations.gov>. Additional information about dockets generally, along with instructions for visiting the dockets in person, is available at <https://www.epa.gov/dockets>.

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

SUPPLEMENTARY INFORMATION:**I. Executive Summary***A. Does this action apply to me?*

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

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).

- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

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

EPA is issuing this rulemaking under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. FFDCA section 408(b)(2)(A)(i) allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." FFDCA section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings but does not include occupational exposure. FFDCA section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . ."

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. If you fail to file an objection to the final rule within the time period specified in the final rule, you will have waived the right to raise any issues resolved in the final rule. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2021-0290 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 31, 2026.

The EPA's Administrative Law Judges Division (ALJD), in which the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in

other procedural rules governing those proceedings. See "Order Urging Electronic Filing and Service," dated December 3, 2025, which can be found at <https://www.epa.gov/system/files/documents/2025-12/2025-12-03-order-urging-electronic-filing-and-service.pdf>. Although the EPA's regulations require submission via U.S. Mail or hand delivery, the EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, the EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the ALJD electronically, a person should utilize the ALJD e-filing system at https://yosemite.epa.gov/oa/eab/eab-alj_upload.nsf.

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

II. Petitioned-For Tolerance

In the **Federal Register** of August 24, 2021 (83 FR 47275) (FRL-8792-02-OCSPP), the **Federal Register** of October 21, 2021 (86 FR 58239) (FRL-8793-04-OCSPP), and the **Federal Register** of March 24, 2023 (88 FR 17778) (FRL-10579-02-OCSPP), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 0F8857) by Taminco US LLC, a subsidiary of Eastman Chemical Company, 200 S Wilcox Drive, Kingsport, TN 37660-5147. The petition requested that 40 CFR 180.698 be amended by establishing tolerances for residues of the plant growth regulator chlormequat chloride, [(2-chloroethyl) trimethylammonium chloride], in or on Aspirated grain fractions (AGF) at 30 parts per million (ppm); barley grain at 8 ppm; barley, hay at 90 ppm; barley, straw at 50 ppm; eggs at 0.1 ppm; horse, meat byproducts at 1 ppm; horse, meat at 0.2 ppm; meat byproducts of cattle at 0.7 ppm; meat of cattle at 0.2 ppm; meat byproducts of goats at 0.7 ppm; meat of

goats at 0.2 ppm; meat byproducts of hogs at 0.5 ppm; meat of hogs at 0.2 ppm; meat byproducts of sheep at 0.7 ppm; meat of sheep at 0.2 ppm; milk at 0.5 ppm; oat, forage at 15 ppm; oat, hay at 100 ppm; oat, straw at 50 ppm; poultry meat byproducts at 0.1 ppm, poultry meat at 0.05 ppm, oat grain at 40 ppm, triticale grain at 5 ppm; wheat, bran at 15 ppm; wheat, germ at 20 ppm; wheat grain at 5 ppm; wheat, forage at 30 ppm; wheat, hay at 90 ppm; and wheat, straw at 80 ppm.

Those documents referenced a summary of the petition prepared by Taminco US LLC, a subsidiary of Eastman Chemical Company, the petitioner, which is available in the docket (Docket ID Number EPA-HQ-OPP-2021-0290) at <https://www.regulations.gov>.

Comments were received in response to the notices of filing, one comment from the Center for Food Safety (CFS), one from Environmental Working Group (EWG), and one from a private citizen which was non-substantive. EPA's response to the remaining comments is addressed in the *Comments on the NOF and EPA's Responses* section of the document, *Response to Public Comments on EPA's Registration Decision to Approve the First Outdoor Food Uses on Wheat, Triticale, Barley, and Oats for Chlormequat Chloride*, posted in Docket ID Number EPA-HQ-OPP-2021-0290 at <https://www.regulations.gov>.

Based upon review of the data supporting the petition and in accordance with its authority under FFDCA section 408(d)(4)(A)(i), EPA is modifying the existing tolerances for residues at different levels than requested. The reason for these changes is explained in Unit IV.C.

III. Finale Tolerance Action

A. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure

of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue"

Consistent with FFDCA section 408(b)(2)(D), and the factors specified therein, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for chlormequat chloride including exposure resulting from the tolerances modified by this action. EPA's assessment of exposures and risks associated with chlormequat chloride follows.

In an effort to streamline its publications in the **Federal Register**, EPA is not reprinting sections of the rule that repeat what has been previously published for tolerance rulemakings for the same pesticide chemical. Where scientific information concerning a particular chemical remains unchanged, the content of those sections would not vary between tolerance rulemakings. EPA considers referral back to those sections as sufficient to provide an explanation of the information EPA considered in making its safety determination for the new rulemaking.

EPA has previously published tolerance rulemakings for chlormequat chloride in which EPA concluded, based on the available information, that there is a reasonable certainty that no harm would result from aggregate exposure to chlormequat chloride and established tolerances for residues of that chemical. EPA is incorporating previously published sections from those rulemakings as described further in this rule, as they remain unchanged.

B. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Specific information on the studies received and the nature of the adverse effects caused by chlormequat chloride as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at <https://www.regulations.gov> in the document, *Chlormequat Chloride*.

Revised Human Health Risk Assessment for the Section 3 Registration Action for a New Use on Wheat, Triticale, Barley, Oats, and Grasses Grown for Seed, in docket ID number EPA-HQ-OPP-2021-0290. This assessment incorporated a subchronic 28-day inhalation study in rats. This study showed decreases in body weight in males, increased incidence of salivation, unsteady gait, tremors, flattened posture, and decreases in white blood cells in both sexes at 0.3 mg/L.

For additional discussion of the Toxicological Profile of chlormequat chloride see Unit III.A of the chlormequat chloride tolerance rulemaking published in the **Federal Register** of April 25, 2018 (84 FR 17925) (FRL-9974-42).

C. Toxicological Points of Departure/Levels of Concern

A summary of the toxicological endpoints used for the human health risk assessment can be found in the document, *Chlormequat Chloride. Revised Human Health Risk Assessment for the Section 3 Registration Action for a New Use on Wheat, Triticale, Barley, Oats, and Grasses Grown for Seed*, in docket ID number EPA-HQ-OPP-2021-0290.

D. Exposure Assessment

Much of the exposure assessment remains the same although updates have occurred to accommodate exposures from the petitioned-for tolerances. These updates are discussed in this section. For a description of the rest of the EPA approach to and assumptions for the exposure assessment, please reference Unit III.C. of the April 25, 2018, rulemaking in the **Federal Register** (84 FR 17925) (FRL-9974-42).

1. *Dietary exposure from food and feed uses.* EPA's dietary exposure assessments have been updated to include the additional petitioned-for tolerances for residues of chlormequat chloride. In estimating acute and chronic dietary exposure, the assessment was conducted using the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID, Version 4.02, EPA) which incorporates 2005–2010 food consumption information from the United States Department of Agriculture's National Health and Nutrition Examination Survey, *What We Eat in America*. The acute assessment is based on tolerance-level residues and assumes 100 percent crop treated (PCT). The acute assessment is unrefined. The chronic assessment is based on average field trial values and assumes 100 PCT. The chronic assessment is partially

refined. Empirical processing factors were included where available. Otherwise, DEEM–FCID default processing factors were used. A cancer dietary assessment was not conducted because chlormequat chloride is classified as “not likely to be carcinogenic to humans.”

EPA did not use refined PCT information in the dietary assessment for chlormequat chloride, although average field trial values were used. Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require, pursuant to FFDCA section 408(f)(1), that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. *Dietary exposure from drinking water.* Since the most recent drinking water assessment was conducted, new metabolism data (aerobic soil, aerobic aquatic, anaerobic aquatic) and terrestrial field dissipation studies have been received, and refined modeling was conducted. The drinking water model and their descriptions are available at the EPA internet site: <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/models-pesticide-risk-assessment>. The updated estimated drinking water concentrations (EDWCs) used in the dietary risk assessment are 661.7 µg/L for acute risk, and 240.2 µg/L for chronic risk, all based on surface water sources of drinking water.

3. *From non-dietary exposure.* Chlormequat chloride is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that when considering whether to establish, modify, leave in effect, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide’s residues and “other substances that have a common mechanism of toxicity.”

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of

toxicity, EPA has not made a common mechanism of toxicity finding as to chlormequat chloride and any other substances, and chlormequat chloride does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that chlormequat chloride has a common mechanism of toxicity with other substances.

E. Safety Factor for Infants and Children

EPA continues to conclude that there are reliable data to support the reduction of the Food Quality Protection Act safety factor from 10X to 1X. See Unit III.D. of the rulemaking published in the **Federal Register** of April 25, 2018 (84 FR 17925) (FRL–9974–42), for a discussion of the Agency’s rationale for that determination.

F. Aggregate Risks and Determination of Safety

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

Acute dietary risks are below the Agency’s level of concern of 100% of the aPAD; they are 22% of the aPAD for infants (<1 year old), the population subgroup with the highest exposure. Chronic dietary risks are below the Agency’s level of concern of 100% of the cPAD; they are 76% of the cPAD for children 1 to 2 years old, the population subgroup with the highest exposure.

Short- and intermediate-term aggregate risks take into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Short- and intermediate-term adverse effects were identified; however, chlormequat chloride is not registered for any use patterns that would result in either short- or intermediate-term residential exposure. Because there is no short- or intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short- or intermediate-term risk),

no further assessment of short- or intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short- and intermediate-term risk for chlormequat chloride.

Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, chlormequat chloride is not expected to pose a cancer risk to humans.

Therefore, based on the risk assessments and information described above, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to chlormequat chloride residues. More detailed information on this action can be found in the document, *Chlormequat Chloride. Revised Human Health Risk Assessment for the Section 3 Registration Action for a New Use on Wheat, Triticale, Barley, Oats, and Grasses Grown for Seed* in docket ID number EPA–HQ–OPP–2021–0290.

IV. Other Considerations

A. Analytical Enforcement Methodology

For a discussion of the available analytical enforcement method, see Unit IV.A. of the April 25, 2018, rulemaking in the **Federal Register** (84 FR 17925) (FRL–9974–42).

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has established MRLs for chlormequat chloride in or on: Barley, grain at 2 ppm; Barley, hay at 50 ppm; Barley, straw at 50 ppm; Hog, meat byproducts at 1 ppm; Hog, meat at 0.2 ppm; Milk at 0.3 ppm; Oat, grain at 4 ppm; Oat, straw at 7 ppm; Wheat, bran at 7 ppm; Wheat, grain at 2 ppm; Wheat, hay at 80 ppm; and Wheat, straw at 80 ppm. These MRLs are different than the tolerances established for chlormequat chloride in the U.S. as a result of the use pattern proposed. EPA is harmonizing with Codex-established MRLs for chlormequat chloride in or on: Cattle, meat byproducts at 1 ppm; Cattle, meat

at 0.2 ppm; Egg at 0.1 ppm; Goat, meat byproducts at 1 ppm; Goat, meat at 0.2 ppm; Poultry, meat byproducts at 0.1 ppm; Sheep, meat byproducts at 1 ppm; and Sheep, meat at 0.2 ppm. EPA is harmonizing with Canada-established MRLs for chlormequat chloride in or on: Barley, bran at 20 ppm; Barley, grain at 8 ppm; Oat, grain at 40 ppm; Oat, bran at 80 ppm; Poultry, meat at 0.05 ppm; Wheat, bran at 15 ppm; Wheat, germ at 20 ppm; Wheat, grain at 5 ppm; and Wheat, straw at 80 ppm. Mexico adopts U.S. tolerances and/or Codex MRLs for its export purposes.

C. Effective and Expiration Date(s)

In general, a tolerance action is effective on the date of publication of the final rule in the **Federal Register**. For actions in the final rule that lower or revoke existing tolerances, EPA will set an expiration date for the existing tolerance of six months after the date of publication of the final rule in the **Federal Register**, in order to allow a reasonable interval for producers in exporting members of the World Trade Organization's (WTO's) Sanitary and Phytosanitary (SPS) Measures Agreement to adapt to the requirements.

D. Revisions to Petitioned-For Tolerances

The tolerance expression for chlormequat chloride stated measuring only chlormequat (2-chloro-*N,N,N*-trimethylammonium) and should be updated as follows: "*The sum of chlormequat and its salts expressed as chlormequat cation*", as the residue definition for both tolerance enforcement and risk assessment for plants and livestock commodities in order to harmonize with Codex and Canada.

The registrant petitioned for a tolerance of 90 ppm for Barley, hay and 50 ppm for Barley, straw. EPA is establishing the tolerances for Barley, hay at 150 ppm and Barley, straw at 60 ppm due to these residues being increased when converted to chlormequat chloride equivalents using a molecular weight conversion factor (MWCF) of 1.29 and calculated with the Organisation for Economic Cooperation and Development (OECD) MRL calculation procedures.

EPA is establishing tolerances for Cattle, meat byproducts; Goat, meat byproducts; and Sheep, meat byproducts at levels higher than requested in order to harmonize with Codex MRLs.

There are established tolerances for Cattle, meat at 0.20 ppm; Egg at 0.10 ppm; Goat, meat at 0.20 ppm; Milk at 0.50 ppm; Poultry, meat byproducts at

0.10 ppm; and Sheep, meat at 0.20 ppm. EPA is establishing the tolerance for Cattle, meat at 0.2 ppm; Egg at 0.1 ppm; Goat, meat at 0.2 ppm; Milk at 0.5 ppm; Poultry, meat byproducts at 0.1 ppm; and Sheep, meat at 0.2 ppm based on rounding class practices.

The registrant petitioned for a tolerance of 0.5 ppm for Hog, meat byproducts and 0.2 ppm for Hog, meat. However, EPA is not establishing those tolerances because the available residue and metabolism data indicate that there is no reasonable expectation of finite residues in swine/hog commodities. In such situations, EPA's regulations state that EPA does not set tolerances for the residues in the hog or swine livestock commodities. See 40 CFR 180.6(b).

The registrant did not petition for Horse, meat byproducts, or Horse, meat. EPA is establishing tolerance levels for Horse, meat byproducts at 1 ppm for harmonization with Codex, and Horse, meat at 0.2 ppm.

The registrant petitioned for a tolerance of 100 ppm for Oat, hay. EPA is establishing the tolerances for Oat, hay at 150 ppm due to these residues being increased when converted to chlormequat chloride equivalents using a MWCF of 1.29 and calculated with the OECD MRL calculation procedures.

The registrant did not petition for Barley, bran. The tolerance on Barley, bran is significantly higher than raw agricultural commodity, Barley, grain; therefore, a tolerance is needed for the processed commodity Barley, bran. EPA is establishing tolerance levels for Barley, bran at 20 ppm for harmonization with Health Canada Pest Management Regulatory Agency (PMRA). EPA is establishing tolerance levels for Wheat, bran at 15 ppm for harmonization with Health Canada PMRA.

The registrant petitioned for a tolerance of 90 ppm for Wheat, hay. EPA is establishing the tolerances for wheat, hay at 150 ppm due to these residues being increased when converted to chlormequat chloride equivalents using a MWCF of 1.29 and calculated with the OECD MRL calculation procedures.

V. Conclusion

Therefore, tolerances are established for residues of chlormequat chloride (the sum of chlormequat and its salts expressed as chlormequat cation) in or on: Barley, bran at 20 ppm; Barley, grain at 8 ppm; Barley, hay at 150 ppm; Barley, straw at 60 ppm; Cattle, meat byproducts at 1 ppm; Cattle, meat at 0.2 ppm; Egg at 0.1 ppm; Goat, meat byproducts at 1 ppm; Goat, meat at 0.2 ppm; Hog, meat byproducts at 0.5 ppm;

Hog, meat at 0.2 ppm; Horse, meat byproducts at 1 ppm; Horse, meat at 0.2 ppm; Milk at 0.5 ppm; Oat, grain at 40 ppm; Oat, forage at 15 ppm; Oat, hay at 150 ppm; Oat, straw at 50 ppm; Poultry, meat byproducts at 0.1 ppm; Poultry, meat at 0.05 ppm; Sheep, meat byproducts at 1 ppm; Sheep, meat at 0.2 ppm; Wheat, bran at 15 ppm; Wheat, germ at 20 ppm; Wheat, grain at 5 ppm; Wheat, forage at 30 ppm; Wheat, hay at 150 ppm; and Wheat, straw at 70 ppm.

VI. Statutory and Executive Order Reviews

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

A. Executive Order 12866: Regulatory Planning and Review

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

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

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

C. Paperwork Reduction Act (PRA)

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

D. Regulatory Flexibility Act (RFA)

Since tolerance actions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the RFA, 5 U.S.C. 601 *et seq.*, do not apply to this action.

E. Unfunded Mandates Reform Act (UMRA)

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

Tribal governments or on the private sector.

F. Executive Order 13132: Federalism

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

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

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

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because tolerance actions like this one are exempt from review under Executive Order 12866.

However, EPA's 2026 Policy on Children's Health applies to this action. This rule finalizes tolerance actions under the FFDCA, which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . ." (FFDCA 408(b)(2)(C)). The Agency's consideration is summarized in Unit III.E.

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

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

J. National Technology Transfer Advancement Act (NTTAA)

This action does not involve technical standards that would require Agency

consideration under NTTAA section 12(d), 15 U.S.C. 272.

K. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 180

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

Dated: June 26, 2026.

Leo Gueriguian,

Acting Director, Office of Pesticide Programs.

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

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

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

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

■ 2. In § 180.698, revise the table in paragraph (a) to read as follows:

§ 180.698 Chlormequat chloride; tolerances for residues.

(a) * * *

TABLE 1 TO PARAGRAPH (A)

Commodity	Parts per million
Barley, bran	20
Barley, grain	8
Barley, hay	150
Barley, straw	60
Cattle, meat byproducts	1
Cattle, meat	0.2
Egg	0.1
Goat, meat byproducts	1
Goat, meat	0.2
Hog, meat byproducts ¹	0.5
Hog, meat ¹	0.2
Horse, meat byproducts	1
Horse, meat	0.2
Milk	0.5
Oat, grain	40
Oat, forage	15
Oat, hay	150
Oat, straw	50
Poultry, meat byproducts	0.1
Poultry, meat	0.05
Sheep, meat byproducts	1
Sheep, meat	0.2
Wheat, bran	15
Wheat, germ	20
Wheat, grain	5
Wheat, forage	30

¹ This tolerance expires December 30, 2026.

TABLE 1 TO PARAGRAPH (A)—
Continued

Commodity	Parts per million
Wheat, hay	150
Wheat, straw	70

* * * * *

[FR Doc. 2026–13185 Filed 6–29–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2023–0555; FRL–13412–01]

Bifenthrin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of bifenthrin in or on multiple commodities which are identified and discussed later in this document. Interregional Project Number 4 (IR–4) submitted a petition to EPA requesting that EPA establish a maximum permissible level for residues of this pesticide in or on the identified commodities.

DATES: This regulation is effective June 30, 2026. Objections and requests for hearings must be received on or before August 31, 2026, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of this document).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2023–0555, is available at <https://www.regulations.gov>.

Additional information about dockets generally, along with instructions for visiting the docket in person, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Charles Smith, Director, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1030; email address: RDfRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or

pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them:

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

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

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

EPA is issuing this rulemaking under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. FFDCA section 408(b)(2)(A)(i) allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." FFDCA section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings but does not include occupational exposure. FFDCA section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. If you fail to file an objection to the final rule within the time period specified in the final rule, you will have waived the right to raise any issues resolved in the final rule. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify the docket ID number EPA-HQ-OPP-2023-0555 in the subject line on the first page of your

submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before August 31, 2026.

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

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of January 13, 2025 (90 FR 2661) (FRL-11682-11), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 3E9078) by the Interregional Research Project Number 4 (IR-4), 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606. The petition requested that 40 CFR 180.442 be amended by establishing tolerances for residues of the insecticide bifenthrin, in or on the raw agricultural commodities: celtuce at 3 ppm; citrus, oil at 0.75 ppm; clover, forage (regional tolerance) at 7 ppm; clover, hay

(regional tolerance) at 30 ppm; coffee, green bean at 0.05 ppm; cottonseed subgroup 20C at 0.5 ppm; edible podded bean subgroup 6-22A at 0.6 ppm; edible podded pea subgroup 6-22B at 0.6 ppm; fennel, Florence, fresh leaves and stalks at 3 ppm; kiwifruit, fuzzy at 1.5 ppm; kohlrabi at 0.6 ppm; leaf petiole vegetable subgroup 22B at 3 ppm; pulses, dried shelled bean, except soybean, subgroup 6-22E at 0.3 ppm; pulses, dried shelled pea subgroup 6-22F at 0.3 ppm; rapeseed subgroup 20A at 0.05 ppm; safflower at 0.2 ppm; succulent shelled bean subgroup 6-22C at 0.05 ppm; succulent shelled pea subgroup 6-22D at 0.05 ppm; Swiss chard at 3 ppm; tropical and subtropical, palm fruit, edible peel, subgroup 23C at 3 ppm; and vegetable, brassica, head and stem, group 5-16 except cabbage at 0.6 ppm.

Additionally, the petition requested, upon approval of the above tolerances, to remove the existing tolerances in 40 CFR 180.442 in or on brassica, head and stem, subgroup 5A, (except cabbage) at 0.6 ppm; cotton, undelinted seed at 0.5 ppm; leafy petioles subgroup 4B at 3.0 ppm; pea and bean, dried shelled, except soybean, subgroup 6C at 0.15 ppm; pea and bean, succulent shelled, subgroup 6B at 0.05 ppm; rapeseed, seed at 0.05 ppm; and vegetable, legume, edible podded, subgroup 6A at 0.6 ppm. That document referenced a summary of the petition prepared by IR-4, the petitioner, which is available in the docket, <https://www.regulations.gov>. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA is establishing some tolerances as requested and some that vary from what was requested. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for bifenthrin including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with bifenthrin is summarized in this unit.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as

the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The database of experimental toxicology studies available for bifenthrin provides a robust characterization of the hazard potential for adults and children. The bifenthrin database is considered complete for risk assessment.

Bifenthrin has been evaluated for a variety of toxic effects in guideline experimental toxicity studies. Predominantly, behavioral changes characteristic of Type I pyrethroids, such as muscle tremors, were seen in most of the bifenthrin experimental toxicology studies, consistent with its mode-of-action (MOA) to activate sodium channels. This observation was noted in several bifenthrin toxicology studies across various species at different durations, and different routes of exposure and lifestages. The published acute Wolansky study provided robust data on locomotor activity, due to the fact that it utilized nine dose groups and a benchmark dose data analysis method to address dose spacing effects.

The Wolansky study is considerably conservative, using the most sensitive rat strain, plus gavage dosing utilizing a vehicle and volume producing the most adverse responses (*i.e.*, 1 mL/kg corn oil). Muscle tremors were observed in nearly all experimental studies in all species and durations; however, motor activity was not measured in most of these studies. The decreased locomotor activity observed in the acute Wolansky study was the most sensitive endpoint identified in the study and therefore, was selected as the endpoint for acute dietary and short-term incidental oral risk assessment. In the acute Wolansky study, tremors were not observed at doses less than 8 mg/kg of bifenthrin, while decreased motor activity was significant at doses of 4 mg/kg and above. Further, the Wolansky study monitored the toxicology at the time of peak effects, unlike most of the guideline studies. Additional effects seen in one or more studies included: muscle twitching, decreased grip strength, altered landing foot splay, depressed respiration, increased grooming counts, loss of muscle coordination, staggered gait, exaggerated hind limb flexion, and convulsions at high doses. Decreased body weight and food consumption were also noted in repeat-dosing dietary studies. There was no clear evidence in the database that

either gender was more sensitive to bifenthrin.

Clinical signs of neurotoxicity were also reported in the route-specific dermal and inhalation toxicity studies. In a 21-day dermal study in rabbits, loss of muscle coordination and increased incidence of tremors were seen at the highest dose tested (442 mg/kg/day) and in a 21-day dermal study in rats, a staggered gait and exaggerated limb flexion was noted at 93 mg/kg/day. In a 28-day inhalation study in rats, increased tremors and increased respiration were seen at the highest concentration tested (0.0196 mg/L/day).

Bifenthrin has been evaluated for potential developmental effects in the rat (following gavage and dietary administration) and in the rabbit (gavage administration). Maternal toxicity included neurological effects (tremors in rats and rabbits; head and forelimb twitching in rabbits). There were no developmental effects of biological significance in either species. A Developmental Neurotoxicity (DNT) study is available, which establishes a clear no observed adverse effect level (NOAEL) for the adult and offspring toxicity. The NOAEL in adults and offspring is similar in magnitude, and the lowest observed adverse effect level (LOAEL) are based on the clinical signs of neurotoxicity (dams had tremors and convulsions, offspring had increased grooming counts). Based on targeted testing in the DNT study for common endpoints for bifenthrin, there was no increase in sensitivity in rat pups. However, the Agency has reviewed existing pyrethroid data and concludes that the DNT is not a particularly sensitive study for comparing the sensitivity of young and adult animals to pyrethroids. The reproductive toxicity of bifenthrin was examined in a two-generation reproduction dietary study in the rat. Tremors were noted only in females of both generations, with one parental generation rat observed to have clonic convulsions, and no observed effects in the offspring. Overall, there is no indication of increased juvenile sensitivity specifically to bifenthrin.

Bifenthrin has low acute toxicity via the dermal (Category III) and inhalation routes (Category III–IV) of exposure and has high acute toxicity via the oral route (Category I). It is not a skin irritant (Category IV) but is a moderate eye irritant (Category III) and is a dermal sensitizer.

Bifenthrin is classified as “Group C—Possible Human Carcinogen,” based on an increased incidence of urinary bladder tumors in mice. However, EPA has determined that quantification of

risk using a non-linear approach (*i.e.*, reference dose (RfD)) will adequately account for all chronic toxicity, including potential carcinogenicity, that could result from exposure to bifenthrin for the following reasons. First, the bladder tumors may not be uncommon in Swiss Webster mice and are not likely to be malignant. Second, these tumors were observed only in male mice at the highest dose. Third, no evidence of carcinogenicity was observed in bifenthrin carcinogenicity studies in rats. Finally, there is a low concern for mutagenicity based on the overall results of the available mutagenicity tests of bifenthrin.

Specific information on the studies received and the nature of the adverse effects caused by bifenthrin, as well as the NOAEL and the LOAEL from the toxicity studies, can be found at <http://www.regulations.gov> in the document titled “Bifenthrin. Human Health Risk Assessment for the Section 3 Registration of Bifenthrin on Clover (Grown For Seed); Coffee; Fuzzy Kiwifruit; Safflower; Tropical And Subtropical Palm Fruit (Subgroup 23C); and Crop Group Expansions/Conversions for Brassica, Head and Stem Vegetables (Group 5–16); Kohlrabi; Succulent Peas and Beans (Subgroups 6–22A, B, C, and D); Dried Beans and Peas (Subgroups 6–22E and F); Rapeseed (Subgroup 20A); Cottonseed (Subgroup 20C); Leaf Petiole Vegetables (Subgroup 22B); Celtnce; Florence Fennel; and Swiss Chard.” in docket ID number EPA–HQ–OPP–2023–0555.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide’s toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the NOAEL and the LOAEL. Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or RfD—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime.

A summary of the toxicological endpoints for bifenthrin used for human risk assessment can be found in the document titled "Bifenthrin. Human Health Risk Assessment for the Section 3 Registration of Bifenthrin on Clover (Grown For Seed); Coffee; Fuzzy Kiwifruit; Safflower; Tropical And Subtropical Palm Fruit (Subgroup 23C); and Crop Group Expansions/Conversions for Brassica, Head and Stem Vegetables (Group 5–16); Kohlrabi; Succulent Peas and Beans (Subgroups 6–22A, B, C, and D); Dried Beans and Peas (Subgroups 6–22E and F); Rapeseed (Subgroup 20A); Cottonseed (Subgroup 20C); Leaf Petiole Vegetables (Subgroup 22B); Celutce; Florence Fennel; and Swiss Chard." in docket ID number EPA–HQ–OPP–2023–0555.

C. Exposure Assessment

1. Dietary Exposure From Food and Feed Uses

In evaluating dietary exposure to bifenthrin, EPA considered exposure under the petitioned-for tolerances as well as all existing bifenthrin tolerances in 40 CFR 180.442. EPA assessed dietary exposures from bifenthrin in food as follows:

i. Acute Exposure

Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for bifenthrin. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture's (USDA) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWELA). As to residue levels in food, EPA used USDA Pesticide Data Program (PDP) monitoring data, field trial data, and empirical processing factors, where available, and incorporated percent crop treated (PCT) estimates in the refined acute dietary exposure assessment.

ii. Chronic Exposure

A chronic dietary endpoint has not been selected for bifenthrin because repeated exposure does not result in a POD lower than that resulting from acute exposure; therefore, the acute dietary risk assessment is protective of chronic dietary risk. However, a refined chronic dietary exposure assessment was conducted to determine the background exposure of food plus drinking water to support the bifenthrin aggregate risk assessment. The

assessment was refined using point estimates derived from PDP monitoring data, field trial data, PCT data, and empirical processing factors.

iii. Cancer

As discussed in Unit III.A., EPA has determined that the acute RfD will adequately account for all repeated exposure/chronic toxicity, including potential carcinogenicity, which could result from exposure to bifenthrin. A separate cancer exposure assessment was not conducted.

iv. Anticipated Residue and Percent Crop Treated (Pct) Information

Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- *Condition A:* The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- *Condition B:* The exposure estimate does not underestimate exposure for any significant subpopulation group.
- *Condition C:* Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The acute dietary assessment used the following maximum PCT estimates: almonds: 40%, apples: 10%; artichokes: 65%; avocados: 2.5%; beans (snap, bush, pole, string): 60%; blueberries: 40%; broccoli: 25%; cabbage: 45%; caneberries: 50%; canola (oil rapeseed): 25%; cantaloupes: 55%; carrots: 10%;

cauliflower: 45%; celery: 45%; chicory: 10%; citron: 10%; citrus hybrids: 10%; corn: 15%; cotton: 25%; cucumbers: 35%; dry beans/peas: 10%; eggplants: 45%; grapefruit: 2.5%; grapes, raisin: 2.5%; grapes, table: 2.5%; grapes, wine: 10%; honeydew: 90%; kumquats: 10%; lemons: 2.5%; lettuce: 20%; lima beans: 40%; limes: 10%; pomelos: 10%; okra: 45%; oranges: 10%; peanuts: 20%; pears: 2.5%; peas (fresh/green/sweet): 50%; pecans: 20%; peppers: 35%; pistachios: 55%; pomegranates: 50%; potatoes: 15%; pumpkins: 30%; soybeans: 15%; spinach: 15%; squash: 25%; strawberries: 70%; sunflowers: 2.5%; sweet corn: 50%; tangerines: 5%; tomatoes: 45%; walnuts: 40%; watermelons: 30%.

The following average PCT estimates for bifenthrin were used to refine the chronic dietary exposure assessment for the following crops: almonds: 35%, apples: 2.5%; artichokes: 35%; avocados: 1%; beans (snap, bush, pole, string): 40%; blueberries: 35%; broccoli: 15%; cabbage: 30%; caneberries: 30%; canola (oil rapeseed): 15%; cantaloupes: 45%; carrots: 2.5%; cauliflower: 15%; celery: 20%; chicory: 2.5%; citron: 2.5%; citrus hybrids: 2.5%; corn: 10%; cotton: 20%; cucumbers: 15%; dry beans/peas: 5%; eggplants: 35%; grapefruit: 1%; grapes, raisin: 1%; grapes, table: 1%; grapes, wine: 2.5%; honeydew: 80%; kumquats: 2.5%; lemons: 2.5%; lettuce: 10%; lima beans: 15%; limes: 2.5%; pomelos: 2.5%; okra: 35%; oranges: 2.5%; peanuts: 10%; pears: 1%; peas (fresh/green/sweet): 25%; pecans: 10%; peppers: 20%; pistachios: 50%; pomegranates: 30%; potatoes: 10%; pumpkins: 15%; soybeans: 10%; spinach: 1%; squash: 20%; strawberries: 50%; sunflowers: 1%; sweet corn: 40%; tangerines: 2.5%; tomatoes: 35%; walnuts: 30%; watermelons: 15%.

A default of 100% CT was used for all livestock and game commodities, freshwater finfish, and all other registered uses where no maximum/average PCT estimates were available. All other commodities included for depicting food handling establishment (FHE) uses were refined with the upper bound estimate of 4.65% for non-fumigant treatments made in FHEs.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and the California Department of Pesticide Regulation (CalDPR) Pesticide Use Reporting (PUR) for the chemical/crop combination for the most recent 10 years. EPA uses an average PCT for chronic dietary risk analysis. The

average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than one. In those cases, 1% is used as the average PCT and 2.5% is used as the maximum PCT. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 10 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%.

The Agency believes that the three conditions discussed in Unit III.C.1.iv. have been met. With respect to Condition A, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions B and C, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have reliable information available on the regional consumption of food to which bifenthrin may be applied in a particular area.

2. Dietary Exposure From Drinking Water

The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for bifenthrin in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of bifenthrin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks>.

The estimated drinking water concentrations (EDWCs) were incorporated directly into the dietary assessment; water residues were incorporated in the Dietary Exposure

Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID) into the food categories "water, direct, all sources" and "water, indirect, all sources." Ground water EDWCs were calculated with Pesticide in Water Calculator (PWC) 2 for citrus as the highest exposure scenarios using chemical input parameters from previous drinking water assessments. Citrus continues to generate no breakthrough for EDWCs despite the increased annual application rates in the proposed labels. Therefore, the EDWC used in the dietary exposure assessment (acute and chronic) is the bifenthrin limit of solubility of 0.000014 ppm, *i.e.*, the maximum possible residues that could occur in drinking water based on the chemical properties of the compound.

3. From Non-Dietary Exposure

The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (*e.g.*, for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Bifenthrin is currently registered for the following uses that could result in residential exposures: Lawns/turf, indoor environments, gardens/trees, pets (dog shampoo), termiticide and indoor/outdoor surface treatment for various residential and commercial premises.

Residential exposures are not expected from the proposed new uses; however, there are existing residential uses that have been previously assessed. Non-occupational exposures from spray drift (dermal [adults and children] and incidental oral [children only]) are expected to be short-term (1 to 30 days) only. Occupational (dermal and inhalation) handler and post-application exposure is expected to be both short- and intermediate-term (1 to 6 months) based on information provided on the proposed labels. These uses were assessed previously, remain current, and are not of concern (*i.e.*, margins of exposure (MOEs) > the level of concern (LOC)).

A quantitative non-occupational spray drift assessment was not conducted for bifenthrin because the proposed use pattern is likely to result in spray drift exposures (*i.e.*, aerial, groundboom, and airblast) that are equal to or less than those assessed in the previous bifenthrin exposure and risk assessment conducted in support of registration review. The previous spray drift assessment concluded that there were no risk estimates of concern at the edge of the field for bifenthrin based on the use patterns assessed and are protective of the currently proposed use patterns.

4. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

The Agency is required to consider the cumulative risks of chemicals sharing a common mechanism of toxicity. The Agency has determined that the pyrethroids and pyrethrins share a common mechanism of toxicity (<https://www.regulations.gov>; EPA-HQ-OPP-2008-0489-0006). As explained in that document, the members of this group share the ability to interact with voltage-gated sodium channels ultimately leading to neurotoxicity. In 2011, after establishing a common mechanism grouping for the pyrethroids and pyrethrins, the Agency conducted a cumulative risk assessment (CRA) which is available at <https://www.regulations.gov>; EPA-HQ-OPP-2011-0746. In that document, the Agency concluded that cumulative exposures to pyrethroids (based on pesticidal uses registered at the time the assessment was conducted) did not present risks of concern. For information regarding EPA's efforts to evaluate the risk of exposure to this class of chemicals, refer to <https://www.epa.gov/ingredients-used-pesticide-products/pyrethrins-and-pyrethroids>.

Since the 2011 CRA, for each new pyrethroid and pyrethrin use, the Agency has conducted a screen to evaluate any potential impacts on the CRA prior to registration of that use. A new turf use for the pyrethroid, tau-fluvalinate, was assessed after completion of the cumulative, which did impact the worst-case non-dietary risk estimates identified in the 2011 CRA for the turf scenario (H. DeLeon, D450820, 16-DEC-2019). However, EPA has determined that the overall finding (*i.e.*, that the pyrethroid cumulative risk is below the Agency's level of concern) would not change upon registration of this new use.

The new uses of bifenthrin proposed by IR-4 will not significantly impact the cumulative assessment because dietary exposures make a minor contribution to total pyrethroid exposure relative to residential exposures in the 2011 cumulative risk assessment. Therefore, the results of the 2011 CRA are still valid and there are no cumulative risks

of concern for the pyrethroids/pyrethrins.

D. Safety Factor for Infants and Children

1. In General

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

2. Prenatal and Postnatal Sensitivity

Bifenthrin has been evaluated for potential developmental effects in the rat (following gavage and dietary administration) and in the rabbit (gavage administration). Maternal toxicity included neurological effects (tremors in rats and rabbits; head and forelimb twitching in rabbits). There were no developmental effects of biological significance in either species. A DNT study was available, which establishes a clear NOAEL for the adult and offspring toxicity. The NOAEL in adults and offspring is similar in magnitude, and the LOAELs are based on the clinical signs of neurotoxicity (dams had tremors and convulsions, offspring had increased grooming counts). Based on targeted testing in the DNT study for common endpoints for bifenthrin, there was no increase in sensitivity in rat pups. However, the Agency has reviewed existing pyrethroid data and concludes that the DNT is not a particularly sensitive study for comparing the sensitivity of young and adult animals to pyrethroids. Some literature studies indicated susceptibility for other pyrethroids, but in context, these studies were conducted at relatively high doses, which may not reflect environmental exposures. The reproductive toxicity of bifenthrin was examined in a 2-generation reproduction dietary study in the rat. Tremors were noted only in females of both generations, with one parental generation rat observed to have clonic convulsions, and no observed effects in the offspring. Overall, there is no indication of increased juvenile sensitivity specifically to bifenthrin.

3. Conclusion

EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. No new information has been available since the last assessment; therefore the Agency concludes that the default 10X FQPA safety factor can be reduced to 1X for all populations for the pyrethroid pesticides. More information regarding the FQPA SF can be found in the 2021 rule (86 FR 68150) (FRL-8945-01-OCSP).

E. Aggregate Risks and Determination of Safety

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

1. Acute Risk

Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to bifenthrin will occupy 12% of the aPAD for children 1–2 years old, the population group receiving the greatest exposure. The acute aggregate risk assessment combines exposures to bifenthrin in food and drinking water only and is equivalent to the acute dietary assessment. There are no acute aggregate risks estimates of concern.

2. Chronic Risk

The chronic dietary (food and drinking water) exposure assessment for bifenthrin was conducted solely for the purpose of obtaining an average dietary exposure estimate for use in the short-term aggregate assessment. The population subgroup with the highest chronic dietary exposure estimate is children 1 to 2 years old (0.000123 mg/kg/day). A chronic aggregate risk assessment was not conducted since single dose and repeat dosing bifenthrin studies show that repeat exposures do not result in lower PODs (*i.e.*, there is no evidence of increasing toxicity with an increased duration of exposure). Therefore, only acute and short-term aggregate risk assessments are conducted for bifenthrin, and these are protective of scenarios in which exposure occurs for longer durations.

3. Short-Term Risk

Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Bifenthrin is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to bifenthrin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in an aggregate MOE of 520 for adults (treated gardens). The short-term aggregate assessment for children 1 to less than 2 years old resulted in an MOE of 170 (high contact lawn activities). The short-term aggregate assessment for children 6 to less than 11 years old and children 11 to 16 years old resulted in MOEs of 1,600 (treated gardens) and 7,500 (golfing), respectively. Because EPA's level of concern for bifenthrin is an MOE of 100 or lower, these MOEs are not of concern.

4. Intermediate-Term Risk

Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). While there is potential intermediate-term residential exposure, because the single dose and repeat dosing bifenthrin studies show that repeat exposures do not result in lower points of departure, the residential assessments are conducted as a series of acute exposures, and the same endpoint is used regardless of duration. Therefore, the short-term aggregate assessment is considered protective of any intermediate-term exposures.

5. Aggregate Cancer Risk for U.S. Population

EPA has concluded that the acute RfD will adequately account for all repeated exposures, including carcinogenicity, which could result from exposure to bifenthrin.

6. Determination of Safety

Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to bifenthrin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromatography with an electron capture detector (GC/ECD) analyses for determining bifenthrin residues in both plant and livestock commodities) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: residuemethods@epa.gov.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

EPA is establishing tolerance levels that are not harmonized with Codex MRLs for the following commodities/subgroups: kohlrabi; vegetable, *brassica*, head and stem, group 5–16, except cabbage; and vegetable, legume, pea, edible podded, subgroup 6–22B.

For kohlrabi, vegetable, *brassica*, head and stem, group 5–16, except cabbage, and vegetable, legume, pea, edible podded, subgroup 6–22B tolerances, harmonization to the corresponding Codex MRLs is not possible as the Codex MRLs are lower than the established tolerances for these groups. Reducing the U.S. tolerance would put U.S. growers at risk of having violative residues despite legal use of the pesticide according to the label.

EPA is establishing tolerances for cottonseed subgroup 20C; milk; milk fat; ruminant (cattle, goat, and sheep) and horse fat; ruminant and horse meat byproducts; rapeseed subgroup 20A; vegetable, legume, pea, succulent shelled, subgroup 6–22D; vegetable, legume, pulse, bean, dried shelled, except soybean, subgroup 6–22E; and

vegetable, legume, pulse, pea, dried shelled, subgroup 6–22F that are harmonized with the corresponding Codex MRLs.

C. Revisions to Petitioned-For Tolerances

Several revisions to the petitioned-for tolerances are explained in this section. Tolerance determinations were based on use of the Organization for Economic Cooperation and Development (OECD) Maximum Residue Limit (MRL) calculation procedures for plant commodities or anticipated residue calculations for livestock commodities. Additionally, international harmonization and data translations were considered where appropriate.

Following the OECD Rounding Classes, EPA is establishing a tolerance of 0.8 ppm for fruit, citrus, group 10–10, oil rather than the proposed tolerance of 0.75 ppm. Also, EPA is establishing the tolerance for tropical and subtropical, palm fruit, edible peel, subgroup 23C based on the date field trials, which differs from the proposed tolerance. Because the decline data for date showed increasing residues past the label-indicated preharvest interval (PHI), the highest residue, found at the 20-day PHI, was selected for use in tolerance determination for that trial; this resulted in a tolerance of 4 ppm, rather than the proposed tolerance of 3 ppm.

Several commodity definitions have also been updated to align with the U.S. EPA Health Effects Division (HED) Preferred Tolerance Vocabulary, including fennel, florence, fresh leaves and stalk; fruit, citrus, group 10–10, oil; safflower, seed; vegetable, *brassica*, head and stem, group 5–16, except cabbage; vegetable, legume, bean, edible podded, subgroup 6–22A; vegetable, legume, bean, succulent shelled, subgroup 6–22C; vegetable, legume, pea, edible podded, subgroup 6–22B; vegetable, legume, pea, succulent shelled, subgroup 6–22D; vegetable, legume, pulse, bean, dried shelled, except soybean, subgroup 6–22E; and vegetable, legume, pulse, pea, dried shelled, subgroup 6–22F.

EPA is establishing the tolerance at different levels than requested for: kohlrabi; vegetable, *brassica*, head and stem, group 5–16, except cabbage; vegetable, legume, bean, edible podded, subgroup 6–22A; and vegetable, legume, pea, edible podded, subgroup 6–22B, to harmonize with the corresponding Canadian MRLs. The proposed tolerance for kohlrabi is 0.6 ppm; EPA is establishing the tolerance at 0.9 ppm. For crop group 5–16, the proposed tolerance is 0.6 ppm; EPA is

establishing the tolerance at 0.9 ppm. For both subgroup 6–22A and subgroup 6–22B, the proposed tolerance is 0.6 ppm; EPA is establishing the tolerance for both subgroups at 0.8 ppm.

Finally, EPA is increasing the tolerances for milk, milk fat, ruminant and horse fat, and ruminant and horse meat byproducts due to the increased dietary burden resulting from the new uses. Although adjustments to these tolerances were not requested in the petition submitted, EPA has stated that before establishing tolerances in raw agricultural commodities, EPA considers the possibility of residues in livestock commodities, *e.g.*, meat, and meat byproducts, from animals eating those treated commodities (40 CFR 180.6(a)). Where the data show that there are residues in livestock feed commodities, EPA will establish the tolerances on the raw agricultural feed item only where the tolerances can be established on the livestock items at the same time (40 CFR 180.6(b)). The commodity definitions for milk and milk fat have also been separated and updated to align with the HED Preferred Tolerance vocabulary. More information on these tolerance determinations can be found in the document titled “Bifenthrin. Human Health Risk Assessment for the Section 3 Registration of Bifenthrin on Clover (Grown For Seed); Coffee; Fuzzy Kiwifruit; Safflower; Tropical And Subtropical Palm Fruit (Subgroup 23C); and Crop Group Expansions/Conversions for Brassica, Head and Stem Vegetables (Group 5–16); Kohlrabi; Succulent Peas and Beans (Subgroups 6–22A, B, C, and D); Dried Beans and Peas (Subgroups 6–22E and F); Rapeseed (Subgroup 20A); Cottonseed (Subgroup 20C); Leaf Petiole Vegetables (Subgroup 22B); Celtuce; Florence Fennel; and Swiss Chard.” in docket ID number EPA–HQ–OPP–2023–0555.

V. Conclusion

Tolerances are established for residues of bifenthrin, in or on the following commodities: cattle, fat at 3 ppm; cattle, meat byproducts at 0.2 ppm; celtuce at 3 ppm; coffee, green bean at 0.05 ppm; cottonseed subgroup 20C at 0.5 ppm; fennel, florence, fresh leaves and stalk at 3 ppm; fruit, citrus, group 10–10, oil at 0.8 ppm; goat, fat at 3 ppm; goat, meat byproducts at 0.2 ppm; horse, fat at 3 ppm; horse, meat byproducts at 0.2 ppm; kiwifruit, fuzzy at 1.5 ppm; kohlrabi at 0.9 ppm; leaf petiole vegetable subgroup 22B at 3 ppm; milk at 0.2 ppm; milk, fat at 3 ppm; rapeseed subgroup 20A at 0.05 ppm; safflower, seed at 0.2 ppm; sheep, fat at 3 ppm; sheep, meat byproducts at

0.2 ppm; Swiss chard at 3 ppm; tropical and subtropical, palm fruit, edible peel, subgroup 23C at 4 ppm; vegetable, *brassica*, head and stem, group 5–16, except cabbage at 0.9 ppm; vegetable, legume, bean, edible podded, subgroup 6–22A at 0.8 ppm; vegetable, legume, bean, succulent shelled, subgroup 6–22C at 0.05 ppm; vegetable, legume, pea, edible podded, subgroup 6–22B at 0.8 ppm; vegetable, legume, pea, succulent shelled, subgroup 6–22D at 0.05 ppm; vegetable, legume, pulse, bean, dried shelled, except soybean, subgroup 6–22E at 0.3 ppm; and vegetable, legume, pulse, pea, dried shelled, subgroup 6–22F at 0.3 ppm. The following regional tolerances are established for clover, forage at 7 ppm and clover, hay at 30 ppm.

The following tolerances are removed as unnecessary due to the establishment of the above tolerances: *brassica*, head and stem, subgroup 5A, except cabbage at 0.6 ppm; cotton, undelinted seed at 0.5 ppm; leafy petioles subgroup 4B at 3.0 ppm; milk, fat (reflecting 0.1 ppm in whole milk) at 1.0 ppm; pea and bean, dried shelled, except soybean, subgroup 6C at 0.15 ppm; pea and bean, succulent shelled, subgroup 6B at 0.05 ppm; rapeseed, seed at 0.05 ppm; and vegetable, legume, edible podded, subgroup 6A at 0.6 ppm. EPA is also removing, as a housekeeping measure, the tolerance for Groundcherry, since that expired on June 1, 2022, and is no longer effective.

VI. Statutory and Executive Order Reviews

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

A. Executive Order 12866: Regulatory Planning and Review

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

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

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

C. Paperwork Reduction Act (PRA)

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

D. Regulatory Flexibility Act (RFA)

Since tolerance actions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the RFA, 5 U.S.C. 601 *et seq.*, do not apply to this action.

E. Unfunded Mandates Reform Act (UMRA)

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

F. Executive Order 13132: Federalism

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

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

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

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because tolerance actions like this one are exempt from review under Executive Order 12866. However, EPA's 2026 *Policy on Children's Health* applies to this action. This rule finalizes tolerance actions under the FFDCA, which requires EPA to give special consideration to exposure of infants and

children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .” (FFDCA 408(b)(2)(C)). The Agency's consideration is summarized in Unit III.D.

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

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

J. National Technology Transfer Advancement Act (NTTAA)

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

K. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 180

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

Dated: June 26, 2026.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

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

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

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

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

■ 2. Amend § 180.442 by revising the table in paragraphs (a)(1) and (c) to read as follows:

§ 180.442 Bifenthrin; tolerances for residues.

(a) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (a)(1)

Commodity	Parts per million
Almond, hulls	2.0
Apple, wet pomace	1.5
Artichoke, globe	1.0
Avocado	0.5
Banana ¹	0.1
Beet, garden, roots	0.45
Beet, garden, tops	15
Berry, low growing, subgroup 13–07G	3
Brassica, leafy greens, subgroup 4–16B	4
Bushberry subgroup 13–07B	1.8
Cabbage	4.0
Caneberry subgroup 13–07A	1
Cattle, fat	3
Cattle, meat byproducts	0.2
Cattle, meat	0.5
Celtuce	3
Coffee, green bean	0.05
Coriander, dried leaves	25
Coriander, leaves	6.0
Coriander, seed	5.0
Corn, field, forage	3.0
Corn, field, grain	0.05
Corn, field, stover	5.0
Corn, pop, grain	0.05
Corn, pop, stover	5.0
Corn, sweet, forage	3.0
Corn, sweet, kernel plus cob with husk removed	0.05
Corn, sweet, stover	5.0
Cottonseed subgroup 20C	0.5
Egg	0.05
Fennel, florence, fresh leaves and stalk	3
Fruit, citrus, group 10–10	0.05
Fruit, citrus, group 10–10, oil	0.8
Fruit, pome, group 11–10, except mayhaw	0.9
Fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F	0.3
Goat, fat	3
Goat, meat byproducts	0.2
Goat, meat	0.5
Grain, aspirated fractions	70
Herb subgroup 19A	0.05
Hog, fat	1.0
Hog, meat byproducts	0.10
Hog, meat	0.5
Hop, dried cones	10.0
Horse, fat	3
Horse, meat byproducts	0.2
Horse, meat	0.5
Kiwifruit, fuzzy	1.5
Kohlrabi	0.9
Leaf petiole vegetable subgroup 22B	3
Lettuce, head	3.0
Mayhaw	1.4
Milk	0.2
Milk, fat	3
Nut, tree, group 14–12	0.05
Peach subgroup 12–12B	0.7
Peanut	0.05
Pepper/eggplant subgroup 8–10B	0.5
Pomegranate	0.5
Poultry, fat	0.05
Poultry, meat byproducts	0.05
Poultry, meat	0.05

TABLE 1 TO PARAGRAPH (a)(1)—
Continued

Commodity	Parts per million
Radish, tops	4.5
Rapeseed subgroup 20A	0.05
Safflower, seed	0.2
Sheep, fat	3
Sheep, meat byproducts	0.2
Sheep, meat	0.5
Soybean, hulls	0.50
Soybean, refined oil	0.30
Soybean, seed	0.2
Spinach	0.2
Sunflower subgroup 20B	0.05
Swiss chard	3
Tea, dried ¹	30
Tomato subgroup 8–10A	0.3
Tropical and subtropical, palm fruit, edible peel, subgroup 23C	4
Vegetable, <i>brassica</i> , head and stem, group 5–16, except cabbage	0.9
Vegetable, cucurbit, group 9	0.4
Vegetable, legume, bean, edible podded, subgroup 6–22A	0.8
Vegetable, legume, bean, succulent shelled, subgroup 6–22C	0.05
Vegetable, legume, pea, edible podded, subgroup 6–22B	0.8
Vegetable, legume, pea, succulent shelled, subgroup 6–22D	0.05
Vegetable, legume, pulse, bean, dried shelled, except soybean, subgroup 6–22E	0.3
Vegetable, legume, pulse, pea, dried shelled, subgroup 6–22F	0.3
Vegetable, root, subgroup 1B except sugar beet and garden beet	0.10
Vegetable, tuberous and corn, subgroup 1C	0.05

¹ There are no U.S. registrations.

* * * * *

(c) * * *

TABLE 2 TO PARAGRAPH (c)

Commodity	Parts per million
Clover, forage	7
Clover, hay	30
Grass, forage	4.0
Grass, hay	15

* * * * *

[FR Doc. 2026–13174 Filed 6–29–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION
AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2021–0435; FRL–12795–01–OCSPP]

Diflufenican; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of diflufenican (CASRN 83164–33–4) in or on multiple commodities which are identified and discussed later in this document. Under the Federal Food, Drug, and Cosmetic Act (FFDCA), Bayer CropScience submitted a petition to EPA requesting that EPA establish a maximum permissible level for residues of this pesticide in or on the identified commodities.

DATES: This rule is effective on June 30, 2026. Objections and requests for hearings must be received on or before August 31, 2026 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.D. of this document.)

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0435, is available online at <https://www.regulations.gov>. Additional information about dockets generally, along with instructions for visiting the docket in person, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Charles Smith, Registration Division (7505T) Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1030; email address: RDPRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).

- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

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

EPA is issuing this rulemaking under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. FFDCA section 408(b)(2)(A)(i) allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." FFDCA section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings but does not include occupational exposure. FFDCA section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. If you fail to file an objection to the final rule within the time period specified in the final rule, you will have waived the right to raise any issues resolved in the final rule. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify the docket ID number EPA-HQ-OPP-2021-0435 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before August 31, 2026.

The EPA's Office of Administrative Law Judges (OALJ), in which the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in

other procedural rules governing those proceedings. See "Revised Order Urging Electronic Filing and Service," dated June 22, 2023, which can be found at <https://www.epa.gov/system/files/documents/2023-06/2023-06-22%20-%20revised%20order%20urging%20electronic%20filing%20and%20service.pdf>. Although the EPA's regulations require submission via U.S. Mail or hand delivery, the EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, the EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the OALJ electronically, a person should utilize the OALJ e-filing system at https://yosemite.epa.gov/oa/eab/eab-alj_upload.nsf.

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

II. Petitioned-For Tolerance

In the **Federal Register** of August 24, 2021 (86 FR 47275, FRL-8792-02-OCSPP), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 1F8912) by Bayer CropScience, 800 N. Lindbergh Blvd., St. Louis, MO 63167. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the herbicide diflufenican, *N*-(2,4-difluorophenyl)-2-[3-(trifluoromethyl)phenoxy]-3-pyridinecarboxamide, in or on corn, forage at 0.01 parts per million (ppm); corn, grain at 0.01 ppm; corn, stover at 0.01 ppm; soybean, forage at 0.015 ppm; soybean, hay at 0.02 ppm; soybean, seed at 0.01 ppm. That document referenced a summary of the petition prepared by Bayer CropScience, the registrant, which is available in the docket, <https://www.regulations.gov>. Three comments were received on the notice of filing.

EPA's response to these comments is discussed in Unit IV.C.

The tolerances EPA is establishing vary from what the petitioners have requested, these changes are explained in greater detail in Unit IV.D.

III. Final Tolerance Action

A. Aggregate Risk Assessment and Determination of Safety

Consistent with FFDCA section 408(b)(2)(D), and the factors specified therein, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for diflufenican including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with diflufenican is as follows.

B. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The hazard database for diflufenican indicates that the major toxicological effect in rodents is decreased body weight regardless of duration of exposure, and no clear target organ was identified. No dermal or inhalation toxicity data are available and therefore every effect specified is through the oral route. In the subchronic and chronic oral studies, decreased body weights were seen in both rats and mice, and adverse decreases in body weight occurred at doses lower than those causing additional toxicological effects. The rat appeared to be the most sensitive species tested, followed by the mouse. There were no adverse effects seen in the subchronic or chronic dog studies up to the limit dose of 1000 mg/kg/day. There did not appear to be a difference in toxicity by sex in any species.

No evidence of increased quantitative or qualitative lifestage susceptibility was seen in rat or rabbit developmental toxicity studies or in the rat reproduction studies. There were no adverse maternal or developmental effects in the developmental rat or rabbit studies up to and exceeding the limit dose (≥ 1000 mg/kg/day). In the rat extended one-generation and two-generation reproduction studies,

adverse decreases in body weights in the parental animals and offspring were the most sensitive effect. Decreased body weights in the offspring were observed in the presence of decreased parental body weights, and there were no reproductive effects seen. There was low acute toxicity through oral, dermal, and inhalation routes. Diflufenican is not an ocular or dermal irritant, nor is it a dermal sensitizer.

Diflufenican is classified as “Not Likely to be Carcinogenic to Humans.” No treatment-related increase in the incidence of tumors was observed in carcinogenicity studies in rats or mice at doses that were considered to be adequate. Additionally, there is no evidence of mutagenicity *in vivo* or *in vitro*. One of the plant metabolites of diflufenican (2,4-difluoroaniline malonate, hereafter referred to as BCS-BT38895) was found to be more toxic than the parent compound, with a different toxicological profile. A cursory analysis of the metabolite based on highly conservative assumptions is assessed separately in Appendix C (pages 96–99) of the Human Health Risk Assessment, in docket ID number EPA–HQ–OPP–2021–0435.

Specific information on the studies received and the nature of the adverse effects caused by diflufenican as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at <https://www.regulations.gov> in document “Diflufenican. Human Health Risk Assessment for Diflufenican. New Active Ingredient” at pages 16–25 in docket ID number EPA–HQ–OPP–2021–0435.

C. Toxicological Points of Departure/ Levels of Concern

Once a pesticide’s toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin

of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides>.

For more detailed information on the toxicological endpoints for diflufenican used for human risk assessment can be found in the “Diflufenican. Human Health Risk Assessment for Diflufenican. New Active Ingredient” at pages 22–23 in docket ID number EPA–HQ–OPP–2021–0435.

D. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to diflufenican, EPA considered exposure under the petitioned-for tolerances. EPA assessed dietary exposures from diflufenican in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. No such effects were identified in the toxicological studies for diflufenican; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA used the 2005–2010 food consumption data from the United States Department of Agriculture’s (USDA’s) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, EPA conducted an unrefined chronic dietary exposure risk assessment using 100 percent crop treated (PCT) and combined residues of diflufenican and DFF-amide (<0.02 ppm) in all samples of corn, field grain and soybean, except for soybean seed (average of diflufenican metabolite, BCS–BT38895, 0.011 ppm). The processing factor used for soybean flour was 1.3x, and the default processing factor was used for corn bran. Based on residues being above the limit of quantitation (<LOQ) at a 5X treatment rate, processing factors for all other commodities were set to 1.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that diflufenican does not

pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk from exposure to diflufenican is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for diflufenican. Tolerance-level residues and/or 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for diflufenican in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of diflufenican. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/models-pesticide-risk-assessment>.

EPA calculated the estimated drinking water concentrations (EDWCs) of diflufenican Using the Pesticide Water Calculator (PWC) ver. 2.001. The modeling simulations for maximum label rates indicate that concentrations in ground water are expected to be higher than those in surface water. Therefore, the chronic value of 30.1 ppb was used to assess the dietary contribution from drinking water.

3. *From non-dietary exposure.* The term “residential exposure” is used in this document to refer to non-occupational, non-dietary exposure (e.g., products registered for direct application to lawns and for garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Diflufenican is not proposed for any specific use patterns that would result in direct applications in residential areas.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide’s residues and “other substances that have a common mechanism of toxicity.”

EPA has not found diflufenican to share a common mechanism of toxicity with any other substances, and diflufenican does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that diflufenican does not have a common mechanism of toxicity with

other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/pesticide-cumulative-risk-assessment-framework>.

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* No evidence of increased quantitative or qualitative lifestage susceptibility was seen in rat or rabbit developmental toxicity studies or in the rat reproduction studies.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

- i. The toxicity database for diflufenican is complete.
- ii. There is no indication that diflufenican is a neurotoxic chemical, and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.
- iii. There is no evidence that diflufenican results in increased quantitative or qualitative lifestage susceptibility in rat and rabbit developmental studies or in the rat reproduction toxicity studies. There were no maternal or developmental adverse effects observed in any of the developmental studies. In the reproduction toxicity studies, no reproductive effects were observed; however, decreased body weights were observed in the offspring and maternal animals at comparable dose levels.
- iv. There are no residual uncertainties identified in the exposure databases.

E. Aggregate Risks and Determination of Safety

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

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

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to diflufenican from food and water will utilize <1% of the cPAD for the general U.S. population, including children 1–2 years old (the most sensitive). Since there are no residential uses for diflufenican, aggregate exposure and risk are equivalent to chronic dietary (food and drinking water) exposure and risk, which are not of concern.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because no short-term adverse effect was identified, diflufenican is not expected to pose a short-term risk.

4. *Intermediate-term risk:* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because no intermediate-term adverse effect was identified, diflufenican is not expected to pose an intermediate-term risk.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, the diflufenican parent compound is not expected to pose a cancer risk to humans and is classified as "Not Likely to be Carcinogenic to Humans."

6. *Metabolite BCS–BT38895.* There is no expectation of exposure to BCS–

BT38895 from residential or occupational exposure scenarios. The only potential route of exposure to BCS–BT38895 is via the dietary route. The available data do not demonstrate a concern for effects attributable to a single exposure at this time; therefore, an acute non-cancer dietary assessment is not necessary for BCS–BT38895. Even with application of a 10X uncertainty factor to extrapolate from subchronic to chronic exposure duration, estimated chronic exposures to BCS–BT38895 are orders of magnitude below any potential chronic non-cancer reference dose for BCS–BT38895. Any chronic exposures to BCS–BT38895 residues are expected to be significantly lower than diflufenican-derived BCS–BT38895 residues based on diflufenican's limited use patterns and lower tolerance-level residues. Therefore, a quantitative chronic non-cancer dietary risk assessment for BCS–BT38895 residues is not necessary to conclude with reasonable certainty that chronic exposures from BCS–BT38895 residues do not pose a non-cancer dietary risk. The highly refined estimated chronic exposure of the most highly exposed adult subpopulation (adults 20–48, 50+) to BCS–BT38895 (0.000005 mg/kg/day) results in an upper bound cancer risk estimate of 3×10^{-8} , which is below the Agency's level of concern. Based again on diflufenican's limited use patterns and lower tolerance-level residues, the Agency concludes that the cancer risk estimates for BCS–BT38895 residues indicate that there should not be any cancer risk from diflufenican-derived BCS–BT38895 residues.

7. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to diflufenican residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology high-performance liquid chromatography with tandem mass spectrometry (HPLC–MS/MS), Method No. DC–003–P18–02 is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: residuemethods@epa.gov.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. The Codex has not established a MRL for diflufenican. However, the proposed tolerances are harmonized with the currently established MRLs of diflufenican in the European Union.

C. Response to Comments

In the **Federal Register** of August 24, 2021 (86 FR 47275, FRL-8792-02-OCSPP), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 1F8912) by Bayer CropScience, 800 N. Lindbergh Blvd., St. Louis, MO 63167. The Agency received three comments. Two of the comments (EPA-HQ-OPP-2021-0435-0004 and EPA-HQ-OPP-2021-0435-0005) were by the same private citizen raising concerns over the use of pesticides on corn and soybeans. Although the Agency recognizes that some individuals believe that pesticides should be banned on agricultural crops, the existing legal framework provided by section 408 of the FFDCA authorizes EPA to establish tolerances when it determines that the tolerance is safe. Upon consideration of the validity, completeness, and reliability of the available data as well as other factors the FFDCA requires EPA to consider, EPA has determined that these diflufenican tolerances are safe. The same commenter further claims diflufenican contains fluoride and states fluoride to be toxic to insects, but provided no information supporting a conclusion that diflufenican is not safe, nor did the commenter provide any basis for concluding that tolerances would have a disproportionate effect on any population. A comprehensive database is available for diflufenican to

support risk assessments that are protective of human health and the environment (including insects). The third comment (EPA-HQ-OPP-2021-0435-0006) was also from a private citizen which did not pertain to diflufenican. The comment addressed the Federal Aviation Administration proposed rule (FAA-2021-0793) which is not germane to this action.

D. Revisions to Petitioned-For Tolerances

FFDCA section 408(d)(4)(A)(i) permits the Agency to finalize a tolerance that varies from that sought by the petition. The petitioner initially requested tolerance levels of 0.015 ppm for soybean, forage and 0.02 ppm for soybean, hay. However, the Agency deems it appropriate to use the more conservative (*i.e.*, results with the highest residue value) approach and as a result produced a recommended tolerance levels of 0.01 ppm for soybean, forage and 0.015 ppm for soybean, hay when entered into the Organization for Economic Cooperation and Development (OECD) calculator.

V. Conclusion

Therefore, tolerances are established for residues of diflufenican, N-(2,4-difluorophenyl)-2-[3-(trifluoromethyl)phenoxy]-3-pyridinecarboxamide, in or on corn, field, forage at 0.01 ppm; corn, field, grain at 0.01 ppm; corn, field, stover at 0.01 ppm; soybean, forage at 0.01 ppm; soybean, hay at 0.015 ppm; and soybean, seed at 0.01 ppm.

VI. Statutory and Executive Order Reviews

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

A. Executive Order 12866: Regulatory Planning and Review

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

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 (90 FR 9065, February 6, 2025) does not apply because actions that establish a tolerance under FFDCA section 408 are

exempted from review under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

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

D. Regulatory Flexibility Act (RFA)

Since tolerance actions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the RFA, 5 U.S.C. 601 *et seq.*, do not apply to this action.

E. Unfunded Mandates Reform Act (UMRA)

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

F. Executive Order 13132: Federalism

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

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

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

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because tolerance actions like this one are exempt from review under Executive Order 12866. However, EPA's 2021 *Policy on Children's Health* applies to this action.

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

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

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

J. National Technology Transfer Advancement Act (NTTAA)

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

K. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 180

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

Dated: June 26, 2026.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

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

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

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

■ 2. Add § 180.728 to subpart C to read as follows:

§ 180.728 Diflufenican; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide

diflufenican, including its metabolites and degradates, in or on the commodities in Table 1 to this paragraph (a). Compliance with the tolerance levels specified in Table 1 to this paragraph (a) is to be determined by measuring only diflufenican, N-(2,4-difluorophenyl)-2-[3-(trifluoromethyl)phenoxy]-3-pyridinecarboxamide, in or on the following commodities.

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
Corn, field, forage	0.01
Corn, field, grain	0.01
Corn, field, stover	0.01
Soybean, Forage	0.01
Soybean, Hay	0.015
Soybean, Seed	0.01

(b) [Reserved]

[FR Doc. 2026–13180 Filed 6–29–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2022–0980; FRL–13253–01–OCSPPI]

Fluoxapiprolin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of fluoxapiprolin in or on the food and feed commodities of brassica head and stem vegetables (group 5–16); bulb vegetables (subgroups 3–07A and 3–07B); cucurbit vegetables (group 9); fruiting vegetables (group 8–10); leafy vegetables (group 4–16); leaf petiole vegetables (subgroup 22B); lettuce head; small fruit vine climbing, except fuzzy kiwifruit (subgroup 13–07F); and tuberous and corm vegetables (subgroup 1C). Under the Federal Food, Drug, and Cosmetic Act (FFDCA), Bayer CropScience submitted a petition to EPA requesting these tolerances.

DATES: This rule is effective on June 30, 2026. Objections and requests for hearings must be received on or before August 31, 2026 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of this document.)

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2022–0980, is available online at <https://www.regulations.gov>.

www.regulations.gov. Additional information about dockets generally, along with instructions for visiting the docket in person, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

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

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

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

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

EPA is issuing this rulemaking under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. FFDCA section 408(b)(2)(A)(i) allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is “safe.” FFDCA section 408(b)(2)(A)(ii) defines “safe” to mean that “there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings but does not include occupational exposure. FFDCA section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate

exposure to the pesticide chemical residue . . .”

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. If you fail to file an objection to the final rule within the time period specified in the final rule, you will have waived the right to raise any issues resolved in the final rule. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify the docket ID number EPA-HQ-OPP-2022-0980 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before August 31, 2026.

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

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute. If you wish to include CBI in your request, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. Information not marked

confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice.

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of July 5, 2023 (88 FR 42935) (FRL-10579-05-OCSP), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 2F9005) by Bayer CropScience, 800 N Lindbergh Blvd., St. Louis, MO 63167. The petition requested that EPA establish tolerances in 40 CFR part 180 for residues of the fungicide fluoxapiprolin in or on tuberous and corm vegetables subgroup 1C at 0.01 parts per million (ppm); onion, bulb subgroup 3-07A at 0.03 ppm; onion, green subgroup 3-07B at 2.0 ppm; lettuce, head at 0.8 ppm; leafy vegetable group 4-16, except head lettuce at 5.0 ppm; brassica head and stem vegetable group 5-16 at 0.8 ppm; fruiting vegetable group 8-10 at 0.06 ppm; cucurbit vegetable group 9 at 0.06 ppm; small fruit vine climbing subgroup 13-07F, except fuzzy kiwifruit at 0.2 ppm; grape, raisin at 0.4 ppm; leafy petiole vegetable subgroup 22B at 1.5 ppm as primary crops; and in or on low growing berry subgroup 13-07G at 0.01 ppm as rotational crops. That document referenced a summary of the petition that was prepared by the petitioner, which is available in the docket at <https://www.regulations.gov>, docket ID number EPA-HQ-OPP-2022-0980. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition and in accordance with its authority under FFDCA section 408(d)(4)(A)(i), EPA is establishing tolerances for onion, green subgroup 3-07B; vegetable, cucurbit, group 9; vegetable, leafy, group 4-16; and grape, raisin that vary from what the petition requested based on the data. In addition, EPA is not establishing a tolerance for low growing berry subgroup 13-07G for the indirect rotational crop usage. The reasons for these changes are explained in Unit IV.C.

III. Final Tolerance Action

A. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is “safe.” Section 408(b)(2)(A)(ii) of FFDCA defines “safe” to mean that “there is a reasonable certainty that no harm will

result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue”

Consistent with FFDCA section 408(b)(2)(D), and the factors specified therein, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for fluoxapiprolin, including exposure resulting from the tolerances established by this action. EPA's assessment of hazards, exposures, and risks associated with fluoxapiprolin follows.

B. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Fluoxapiprolin is a piperidinyl-thiazole-isoxazoline fungicide used to control oomycete diseases in a variety of vegetable and vine crops. Fluoxapiprolin has an oxysterol binding protein inhibitor pesticidal mode of action, but a mammalian mode of action has not been determined. Across the fluoxapiprolin database, there were no adverse effects seen in guideline studies. No developmental or maternal toxicity was observed up to the limit dose in developmental toxicity studies in rats and rabbits. In a rat two-generation reproduction toxicity study, no toxicity was observed up to the highest doses tested (262/302 mg/kg/day (M/F)), which were selected based on toxicokinetic data. In the developmental and reproduction toxicity studies, there was no indication that fluoxapiprolin had an adverse effect on fetal or offspring development, fertility, or reproductive performance. In the carcinogenicity studies, fluoxapiprolin was not found to be carcinogenic in rats or mice and was not mutagenic. Based

on the lack of toxicity in the available fluoxapiprolin toxicity database, no toxicological points of departure (POD) have been established to evaluate incidental oral, dermal, or inhalation exposure scenarios for fluoxapiprolin human health risk assessment.

In the toxicological database for fluoxapiprolin, a 28-day oral toxicity study in rats examining an aerobic soil degradate of fluoxapiprolin, BCS-BP32808, is available. Decreased total motor activity and piloerection in males and females was observed at 12 mg/kg/day (no observed adverse effect level (NOAEL) was 5 mg/kg/day), indicating that the degradate BCS-BP32808 is more toxic than the parent. Additionally, BCS-BP32808 was positive for mutagenicity in a bacterial reverse mutation assay but did not induce gene mutations in an *in vitro* mammalian cell gene mutation test. BCS-BP32808 showed a positive response in the *in vitro* chromosomal aberration assay. However, when BCS-BP32808 was tested *in vivo*, it did not induce micronuclei in the mouse micronucleus test up to non-cytotoxic doses. Lastly, BCS-BP32808 was negative for the induction of mutations *in vivo* in the liver and glandular stomach of transgenic mice. Therefore, there is low concern for mutagenicity for BCS-BP32808 *in vivo*.

The toxicological database for fluoxapiprolin is considered complete and adequate for hazard identification, characterization, and risk assessment. Fluoxapiprolin was categorized as having low acute toxicity via the oral (Toxicity Category III), dermal (Toxicity Category III), and inhalation routes (Toxicity Category IV) of exposure. It produces minimal but reversible eye irritation (Toxicity Category IV). It is not a dermal irritant but is a dermal sensitizer.

C. Toxicological Points of Departure/ Levels of Concern

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

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

Based on the lack of toxicity in the available fluoxapiprolin toxicity database, no toxicological PODs have been established for fluoxapiprolin. More detailed information on the toxicological endpoints for the degradate of fluoxapiprolin, BCS-BP32808, used for human health risk assessment can be found in the document "Fluoxapiprolin: Human Health Risk Assessment to Support the Registration of a New Active Ingredient for Proposed Uses on Brassica Head and Stem Vegetables; Bulb Vegetables; Cucurbit Vegetables; Fruiting Vegetables; Leafy Vegetables; Leaf Petiole Vegetables; Small Fruit Vine Climbing, Except Fuzzy Kiwifruit; and Tuberous and Corm Vegetables" (hereafter, the Fluoxapiprolin Human Health Risk Assessment) in docket ID number EPA-HQ-OPP-2022-0980 at <https://www.regulations.gov>.

D. Exposure Assessment

1. Dietary Exposure From Food and Feed Uses

In evaluating dietary exposure to fluoxapiprolin, EPA considered exposure under the petitioned-for tolerances. EPA assessed dietary exposures from fluoxapiprolin as follows:

i. Acute and chronic exposure.

Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. No acute or chronic effects were identified in the toxicological studies for fluoxapiprolin; however, such effects were identified for the degradate of fluoxapiprolin, BCS-BP32808. In estimating the acute and chronic dietary exposure, EPA used the Dietary Exposure Evaluation Model software with the Food and Commodity Intake Database (v 4.02). This software uses the food consumption information from the United States Department of

Agriculture's 2005–2010 National Health and Nutrition Examination Survey, What We Eat in America. As to residue levels in food, EPA conducted unrefined acute and chronic dietary exposure assessments based on the recommended tolerance for fluoxapiprolin for onion, green subgroup 3–07B, which are high enough to cover residues for the degradate, BCS-BP32808. BCS-BP32808 was only identified and quantifiable in green onion samples, and the tolerance level for onion, green subgroup 3–07B is higher than the BCS-BP32808 residue levels of the individual green onion samples. Both the acute and chronic assessments assume 100 percent crop treated (PCT), default processing factors, and incorporate conservatively modeled estimated drinking water concentrations (EDWC) of BCS-BP32808.

ii. *Cancer*. Based on its review of available data, EPA has concluded that fluoxapiprolin is not likely to be carcinogenic. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iii. *Anticipated residue and PCT information*. EPA did not use anticipated residue and/or PCT information in the acute or chronic dietary exposure assessment for BCS-BP32808. Tolerance level residues and/or 100 PCT were assumed.

The Agency addressed exposures from the three major routes (oral, dermal, and inhalation) and determined whether the individual exposures from these routes can be combined. If two or more exposures have endpoints based on the same target organ or system, they can be combined. Toxicity was seen only for the degradate BCS-BP32808. Therefore, BCS-BP32808 was used for establishing residues of concern (ROC) in primary crops, rotational crops, and drinking water for risk assessment purposes. For livestock commodities, no residues are included in the ROCs for risk assessment purposes. No endpoints were selected for fluoxapiprolin, thus there is no need to consider combining routes of exposures to that compound. As identified earlier, the BCS-BP32808 degradate has been identified for toxicological effects. No endpoints were selected for dermal and inhalation exposures for BCS-BP32808, thus these routes cannot be combined.

For fluoxapiprolin, the nature of the residue is adequately understood based on plant and livestock metabolism studies. In the metabolic profile in plants, the parent compound represented the most prominent residue in above-ground parts of crops (grapes and lettuce), whereas metabolites that have been formed in soil were mainly

detected in potato tuber. The predominant residues observed in primary crops were also observed in rats. The metabolic pathway of fluoxapiprolin in rats, poultry (laying hens), and ruminants (goats) was similar.

Field trial studies are of an adequate number and geographic representation. The magnitude of the residue data show that when following the proposed use patterns, parent fluoxapiprolin is the most widely observed compound and comprises most of the residues. Due to its hazard, BCS-BP32808, has been identified as the ROC for risk assessment in primary crop plants. While it was not observed in the lettuce, grape, or potato metabolism studies, it was observed at quantified levels in the green onion residue trials. The unrefined acute and chronic dietary exposure analyses are based on the recommended tolerance for fluoxapiprolin for onion, green subgroup 3-07B, which are high enough to cover residues for BCS-BP32808. Additionally, both assessments assume 100 PCT and incorporate conservatively modeled EDWCs of BCS-BP32808.

2. Dietary Exposure From Drinking Water

The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for fluoxapiprolin in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of fluoxapiprolin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/models-pesticide-risk-assessment>.

Determination of the ROCs for human health in drinking water included consideration of fluoxapiprolin and the degradate BCS-BP32808. The drinking water ROC is limited only to the granddaughter degradate BCS-BP32808 and does not include the parent fluoxapiprolin. Fluoxapiprolin is classified as hardly mobile, while the degradate BCS-BP32808 is classified as highly mobile. For the drinking water ROC for BCS-BP32808, the aerobic soil metabolism half-lives range from 3.8 to 28.7 days (non-persistent to slightly persistent). Aerobic and anaerobic aquatic metabolism half-lives range from 14 to 56.2 days and 85.5 to 108 days in the total system, respectively.

Based on the *Pesticides in Water Calculator* (PWC; version 2.001), the EDWCs of degradate BCS-BP32808 for acute dietary exposures are estimated to

be 1.0 µg/L for surface water and 1.2 µg/L for groundwater. EDWCs for chronic dietary exposures are estimated to be 0.2 µg/L for surface water and 1.0 µg/L for groundwater. The modeled maximum EDWCs were incorporated into the dietary exposure model.

3. From Non-Dietary Exposure

The term “residential exposure” is used in this document to refer to non-occupational, non-dietary exposure (e.g., from lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Fluoxapiprolin is not registered for any use patterns that are expected to result in residential exposure.

4. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide’s residues and “other substances that have a common mechanism of toxicity.”

In 2016, EPA’s Office of Pesticide Programs released a guidance document, “Pesticide Cumulative Risk Assessment: Framework for Screening Analysis”. The Agency has utilized this framework for fluoxapiprolin and determined that although fluoxapiprolin shares some chemical and/or toxicological characteristics (e.g., chemical structure or apical endpoint) with other pesticides, the toxicological database does not support a testable hypothesis for a common mechanism of action. No further data are required to determine that no common mechanism of toxicity exists for fluoxapiprolin and other pesticides and no further cumulative evaluation is necessary for fluoxapiprolin. For information regarding EPA’s efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA’s website at <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/pesticide-cumulative-risk-assessment-framework>.

E. Safety Factor for Infants and Children

1. In General

FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable

data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. Prenatal and Postnatal Sensitivity

The available toxicity database for fluoxapiprolin does not show any evidence of neurotoxicity, including in the acute neurotoxicity study. A developmental neurotoxicity study was not required.

Evidence of potential neurotoxicity was observed in the 28-day oral toxicity study conducted on the degradate of fluoxapiprolin, BCS-BP32808. However, there is a low degree of concern for the potential neurotoxic effects since (1) clear NOAELs were identified for the neurotoxic effects; and (2) the endpoints chosen for risk assessment are protective of any potential neurotoxicity.

3. Conclusion

For fluoxapiprolin, EPA has not identified any toxicological endpoints of concern associated with any threshold effects and has conducted a qualitative assessment. As part of that assessment, the Agency did not use SFs for assessing risk, and no additional SF is needed for assessing risk to infants and children. EPA has also evaluated the available data for fluoxapiprolin and concluded that there are no residual uncertainties concerning the potential risks to infants and children that would impact its conclusions about threshold effects.

For BCS-BP32808, EPA is retaining the 10X FQPA SF for protection of infants and children to address hazard uncertainties, including incompleteness of the database, prenatal and postnatal toxicity, and subchronic to chronic uncertainty. The Agency concludes that this safety factor will be protective of potential toxicity to infants and children given the conservative exposure estimates and overall low expected exposure.

E. Aggregate Risk and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing dietary exposure estimates to the acute population adjusted dose (aPAD) and the chronic population adjusted dose (cPAD). Short-, intermediate-, and chronic term aggregate risks are evaluated by

comparing the estimated total food, water, and residential exposure to the appropriate points of departure to ensure that an adequate MOE exists.

No adverse effects were observed in the submitted toxicological studies for fluoxapiprolin regardless of the route of exposure. Therefore, a quantitative aggregate exposure assessment was not conducted for fluoxapiprolin.

For the degradate of fluoxapiprolin, BCS-BP32808, the Agency characterized the risk of BCS-BP32808 based upon the results observed in the 28-day oral toxicity study and conservative exposure assumptions as a protective screening measure. Residential exposures to BCS-BP32808 are not anticipated based on the proposed uses, and no dermal, incidental oral, and inhalation endpoints or PODs have been established for BCS-BP32808. Therefore, the quantitative dietary assessment of BCS-BP32808 is considered as a screening-level aggregate exposure assessment for BCS-BP32808.

1. Acute Risk

Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to fluoxapiprolin (BCS-BP32808) will occupy 3.8% of the aPAD for all infants, the population group receiving the greatest exposure.

2. Chronic Risk

Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to fluoxapiprolin (BCS-BP32808) from food and water will utilize less than 1% of the cPAD for the general U.S. population, and 1.6% for all infants, the population group receiving the greatest exposure. There are no residential uses for fluoxapiprolin.

3. Short- and Intermediate-Term Risk

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

Short- and intermediate-term adverse effects were identified. However, fluoxapiprolin is not being proposed to be registered for any use patterns that would result in either short- or intermediate-term residential exposure. Therefore, the short-term and intermediate-term aggregate risks are equivalent to the chronic dietary risk estimates, which are not of concern.

4. Aggregate Cancer Risk for U.S. Population

Based on the evidence of low carcinogenicity in two adequate rodent carcinogenicity studies, fluoxapiprolin is not expected to pose a cancer risk to humans.

5. Determination of Safety

Based on the risk assessments and information described above, EPA concludes there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to fluoxapiprolin residues. More detailed information on this action can be found in the Fluoxapiprolin Human Health Risk Assessment in docket ID number EPA-HQ-OPP-2022-0980.

IV. Other Considerations

A. Analytical Enforcement Methodology

For analysis of fluoxapiprolin for purposes of regulatory enforcement, the petitioner has proposed method 01624 for assessing residues on plants and method 01628 for assessing residues on livestock products and biproducts. Extracted residue levels are determined by a high-performance liquid chromatography/triple-stage quadrupole mass spectrometry method. The method limit of quantitation is 0.01 mg/kg (ppm). Furthermore, the method is considered acceptable for enforcement purposes.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). Codex is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL. However, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has proposed MRLs for fluoxapiprolin on grapes; grapes, dried; onion bulb; tomato; and potato. The U.S. tolerances and proposed Codex MRLs for the following commodities are harmonized: grape, raisin and grapes, dried at 0.5 ppm; onion, bulb, subgroup

3-07A and onion bulb at 0.03 ppm; and vegetable, tuberous and corm, subgroup 1C and potato at 0.01 ppm. The U.S. tolerance and Codex MRL are not harmonized for grapes or vegetable, fruiting, group 8-10 and tomato. EPA is establishing a tolerance for fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13-07F at 0.2 ppm, which is higher than the proposed individual Codex MRL for grapes at 0.15 ppm. The U.S. tolerance is based on available residue data and use by U.S. growers consistent with approved label instructions could result in residues that exceed the Codex MRL. Harmonizing with the proposed Codex MRL could put U.S. growers at risk of violative residues despite legal use. EPA is establishing a tolerance for vegetable, fruiting, group 8-10 at 0.06 ppm, which is lower than the proposed individual Codex MRL for tomato at 0.07 ppm. Fluoxapiprolin is being jointly reviewed in the U.S. and Canada. For this joint review, the U.S. tolerances and Canadian MRLs and associated tolerance expressions are harmonized between the U.S. and Canada. While Codex has proposed an MRL for tomato, the MRL is not yet established. Mexico has not established any fluoxapiprolin MRLs.

C. Revisions to Petitioned-For Tolerances

The petitioned-for tolerance on onion, green subgroup 3-07B has been revised from 2.0 ppm to 2 ppm to remove trailing zeros in accordance with Organization for Economic Cooperation and Development (OECD) rounding class practice. The Agency is establishing a higher tolerance level than the petition requested for vegetable, cucurbit, group 9 (0.07 ppm instead of 0.06 ppm) and vegetable, leafy, group 4-16 (6 ppm instead of 5 ppm) based on OECD tolerance calculation procedures. The Agency is establishing a tolerance for vegetable, fruiting, group 8-10 of 0.06 ppm to harmonize with Canada at that level. The Agency is establishing a higher tolerance level than the petition requested for grape, raisin (0.5 ppm instead of 0.4 ppm), based on the grape highest average field trial data and the raisin processing factor. Additionally, EPA is not establishing a tolerance for inadvertent residues on berry, low growing, subgroup 13-07G for the indirect rotational crop usage since fluoxapiprolin residues in strawberry fruit were less than the limit of quantitation (0.010 ppm) in a limited field rotational crop study.

V. Conclusion

Therefore, a tolerance is established for residues of fluoxapiprolin in or on the food and feed commodities of: Fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 0.2 ppm; Grape, raisin at 0.5 ppm; Leaf petiole vegetable subgroup 22B at 1.5 ppm; Lettuce, head at 0.8 ppm; Onion, bulb, subgroup 3–07A at 0.03 ppm; Onion, green, subgroup 3–07B at 2 ppm; Vegetable, *brassica*, head and stem, group 5–16 at 0.8 ppm; Vegetable, cucurbit, group 9 at 0.07 ppm; Vegetable, fruiting, group 8–10 at 0.06 ppm; Vegetable, leafy, group 4–16, except lettuce, head at 6 ppm; and Vegetable, tuberous and corm, subgroup 1C at 0.01 ppm.

VI. Statutory and Executive Order Reviews

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

A. Paperwork Reduction Act (PRA)

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

B. Regulatory Flexibility Act (RFA)

Since tolerance actions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the RFA, 5 U.S.C. 601 *et seq.*, do not apply to this action.

C. Unfunded Mandates Reform Act (UMRA)

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

tribal governments or on the private sector.

D. Executive Order 13132: Federalism

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

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

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

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because tolerance actions like this one are exempt from review under Executive Order 12866.

However, EPA's 2026 *Policy on Children's Health* applies to this action. This rule finalizes tolerance actions under the FFDCA, which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .” (FFDCA 408(b)(2)(C)). The Agency's consideration is summarized in Unit III.E.

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

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

regulatory action under Executive Order 12866.

H. National Technology Transfer Advancement Act (NTTAA)

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

I. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 180

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

Dated: June 26, 2026.

Leo Gueriguian,

Acting Director, Office of Pesticide Programs.

For the reasons set forth in the preamble, EPA is amending 40 CFR chapter I as follows:

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

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

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

■ 2. Add § 180.732 to subpart C to read as follows:

§ 180.732 Fluoxapiprolin; tolerances for residues.

(a) *General.* Tolerances are established for residues of the fungicide fluoxapiprolin, including its metabolites and degradates, in or on the commodities in table 1 to paragraph (a). Compliance with the tolerance levels specified in table 1 to paragraph (a) is to be determined by measuring the residues of fluoxapiprolin (2-[3,5-bis(difluoromethyl)-1H-pyrazol-1-yl]-1-[4-[4-[5-[2-chloro-6-[(methylsulfonyl)oxy]phenyl]-4,5-dihydro-3-isoxazolyl]-2-thiazolyl]-1-piperidinyl]ethanone) in or on the commodity.

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
Fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F	0.2
Grape, raisin	0.5
Leaf petiole vegetable subgroup 22B	1.5
Lettuce, head	0.8

TABLE 1 TO PARAGRAPH (a)—Continued

Commodity	Parts per million
Onion, bulb, subgroup 3–07A	0.03
Onion, green, subgroup 3–07B	2
Vegetable, brassica, head and stem, group 5–16	0.8
Vegetable, cucurbit, group 9	0.07
Vegetable, fruiting, group 8–10	0.06
Vegetable, leafy, group 4–16, except lettuce, head	6
Vegetable, tuberous and corm, subgroup 1C	0.01

(b) [Reserved]

[FR Doc. 2026–13198 Filed 6–29–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180****[EPA–HQ–OPP–2022–0354; FRL–13239–01–OCSPP]****Epyrifenacil; Pesticide Tolerances****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This regulation establishes tolerances for residues of epyrifenacil (CASRN 353292–31–6) in or on corn, field (forage, grain, stover); rapeseed, seed; soybean (forage, hay, seed); wheat (forage, grain, hay, straw). Under the Federal Food, Drug, and Cosmetic Act (FFDCA), Valent submitted a petition to EPA requesting that EPA establish a maximum permissible level for residues of this pesticide in or on the identified commodities.

DATES: This rule is effective on June 30, 2026. Objections and requests for hearings must be received on or before August 31, 2026 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of this document).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2022–0354, is available at <https://www.regulations.gov>. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/>.

FOR FURTHER INFORMATION CONTACT: Charles Smith, Director, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–1030; email address: RDfrNotices@epa.gov.

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

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

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

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

EPA is issuing this rulemaking under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. FFDCA section 408(b)(2)(A)(i) allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is “safe.” FFDCA section 408(b)(2)(A)(ii) defines “safe” to mean that “there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings but does not include occupational exposure. FFDCA section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue”

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an

objection to any aspect of this regulation and may also request a hearing on those objections. If you fail to file an objection to the final rule within the time period specified in the final rule, you will have waived the right to raise any issues resolved in the final rule. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2022–0354 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before August 31, 2026.

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

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute. If you wish to include CBI in your request, please

follow the applicable instructions at <https://www.epa.gov/dockets/epa-dockets#rules> and clearly mark the information that you claim to be CBI. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice.

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of June 26, 2023 (88 FR 41395) (FRL-10841-05-OCSP), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP PP2F8983) by Valent, P.O. Box 5075, San Ramon, CA 94583. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the herbicide epyrifencil, ethyl [(3-{2-chloro-4-fluoro-5-[3-methyl-2,6-dioxo-4-(trifluoromethyl)-3,6-dihydropyrimidin-1(2H)-yl]phenoxy}-2-pyridyl)oxy]acetate, in or on canola, field corn, soybean, wheat at 0.01ppm.

A summary of the petition prepared by Valent, the registrant, is available in the docket, ID number EPA-HQ-OPP-2022-0354, at <https://www.regulations.gov>. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has modified several tolerances for the listed commodities for harmonization with the upcoming registrations by Canada's Pest Management Regulatory Agency (PMRA). The reason for these changes are explained in Unit IV.B and IV.C.

III. Final Tolerance Action

A. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a

tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for epyrifencil including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with epyrifencil follows.

B. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Repeated dose oral toxicity studies with epyrifencil are available for rats, mice, and dogs. Across durations, the mouse was the most sensitive species, followed by the rat and then the dog. Male mice were more sensitive than female mice. The target organs/tissues identified following exposure to epyrifencil were the liver and blood. Liver effects in mice and rats included an increase in liver weights, hepatocellular hypertrophy, and degeneration/necrosis. In blood, there is a mild decrease in red blood cell parameters resulting in secondary increased erythropoiesis in the bone marrow and increased extramedullary hematopoiesis in the spleen. Hematological changes, typically of a mild and adaptive nature, occurred at doses where more observable and notable liver-related effects were seen, highlighting the liver's heightened sensitivity as the primary/target organ. In a subchronic (90-day) inhalation study in rats, adverse portal of entry effects included degenerative and inflammatory changes occurring in the upper respiratory tract (turbinate and pharynx). In a 28-day dermal toxicity study in rats, no adverse effects were observed in both sexes up to the limit dose (1000 mg/kg/day). Epyrifencil showed no evidence of neurotoxicity in the available studies in rats. *In vitro* studies found no evidence of genotoxicity or mutagenicity for parent epyrifencil or its metabolites.

In the rat developmental study, adverse developmental toxicity (increased presence of supernumerary ribs in the cervical region) was observed at a higher dose than maternal toxicity. There is evidence of increased qualitative susceptibility in the two-generation reproductive toxicity study in rats. In that study, adverse parental toxicity included bile duct hyperplasia and hepatocellular necrosis in males. In the offspring, at the same dose, there was increased mortality and moribundity in F1 males, which was accompanied by clinical observations (pale and cool extremities and/or body) and reduced body weights. Additionally, adverse hematological changes in F1 males and F2 females presented as severely decreased red blood cell parameters indicative of anemia. Reproductive toxicity included delayed sexual maturation in F1 males and females.

Epyrifencil has low acute oral (Category III), dermal (Category III), and inhalation toxicity (Category IV). It is minimally irritating to the eye and skin (Category IV) and is not a skin sensitizer (see Table A.2.1 for details).

In vivo studies with metabolites focused on S-3100-DP-Me, S-3100-PR, 4"-OH-S-3100-CA, S-3100-CA-RD, and S-3100-DA. Results from these dietary studies in mice included adverse liver effects and adaptive hematological effects (lower erythrocyte count, hematocrit, and hemoglobin) in both sexes at doses ≥ 229.3 mg/kg/day. *In vitro* genotoxicity battery testing in S-3100-DA, S-3100-PR, S-3100-BFP, S-3100-DP, and S-3100-CA-UR showed no evidence of genotoxicity. Overall findings from repeat dose studies conducted with metabolites concluded that they were less toxic than the parent compound. A quantitative structure-activity relationship analysis was conducted using Derek Nexus (v2.5.2, kb 2022 2.0) on the parent compound, which found no carcinogenicity/mutagenicity alerts.

Specific information on the studies received and the nature of the adverse effects caused by epyrifencil as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at <https://www.regulations.gov> in the document "Epyrifencil: Human Health Risk Assessment for the Section 3 Registration of the New Herbicide Active Ingredient Epyrifencil on Field Corn, Canola, Soybean, Wheat, Fallow Land, Bare Ground, and Non-crop Areas" at page 21 in docket ID number EPA-HQ-OPP-2022-0354.

C. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the NOAEL and LOAEL. Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD), and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see <https://www.epa.gov/pesticides/factsheets/riskassess.htm>.

A summary of the toxicological endpoints for epyrifenacil used for human risk assessment is shown in Table 1 of this unit.

D. Exposure Assessment

1. Dietary Exposure From Food and Feed Uses

In evaluating dietary exposure to epyrifenacil, EPA considered exposure under the petitioned-for tolerances. EPA assessed dietary exposures from epyrifenacil in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. An endpoint was identified for acute dietary exposure for the female 13–49 years old population subgroup only; therefore, no acute dietary risk assessment was performed for any other population subgroups. EPA conducted an unrefined acute dietary exposure risk assessment using recommended tolerance-level and 100 percent crop treated (PCT) for all commodities. The female 13–49 years old population subgroup occupied <1% of the acute population-adjusted dose (aPAD).

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the 2005–2010 food

consumption data from the U.S. Department of Agriculture's National Health and Nutrition Examination Survey, What We Eat in America. As to residue levels in food, EPA conducted an unrefined chronic dietary exposure risk assessment using recommended tolerance-level and 100 PCT for all commodities. The chronic dietary risk for the highest exposed population subgroup, all infants, utilizes 53% of the cPAD, which is below HED's LOC (<100% cPAD).

iii. *Cancer.* Epyrifenacil is classified as “not likely to be carcinogenic to humans below doses that induce hepatocellular injury”. This is based on an acceptable tumorigenic MOA for liver tumors in male mice that posed no concern for mutagenicity. The cPAD is protective of potential carcinogenic effects. Therefore, a separate cancer dietary assessment was not required.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for epyrifenacil. Tolerance level residues and/or 100% PCT were used for all food commodities.

2. Dietary Exposure From Drinking Water

The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for epyrifenacil in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of epyrifenacil. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at <https://www.epa.gov/oppefed1/models/water/index.htm>.

Based on the *Pesticide in Water Calculator* (version 2.001; Sept 2020), the estimated drinking water concentrations (EDWC) of epyrifenacil for acute exposures are estimated to be 2.6 micrograms per liter (µg/L) for surface water and 8.1 µg/L for ground water. For chronic exposures for non-cancer assessments, EDWCs are estimated to be 1.2 µg/L for surface water and 6.3 µg/L for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the EDWC of 8.1 µg/L was used to assess the contribution to drinking water. For chronic dietary risk assessment, the EDWC of 6.3 µg/L was used to assess the contribution to drinking water.

3. From Non-Dietary Exposure

The term “residential exposure” is used in this document to refer to non-

occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Epyrifenacil is not registered for any specific use patterns that would result in residential exposure. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at <https://www.epa.gov/pesticides/trac/science/trac6a05.pdf>.

4. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide's residues and “other substances that have a common mechanism of toxicity.”

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to epyrifenacil and any other substances, and epyrifenacil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this action, therefore, EPA has not assumed that epyrifenacil has a common mechanism of toxicity with other substances.

D. Safety Factor for Infants and Children

1. In General

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

2. Prenatal and Postnatal Sensitivity

No evidence of increased quantitative susceptibility was seen in rat and rabbit developmental toxicity studies. Adverse developmental toxicity in rats (extra supernumerary ribs in the cervical region) was observed at the highest dose

tested (200 mg/kg/day), which was higher than the dose eliciting maternal toxicity. However, in the two-generation reproductive toxicity study there is evidence of increased qualitative susceptibility at 20.04/22.63 mg/kg/day (M/F) in the offspring (increased mortality and moribund animal counts seen in the post-lactation F1 males). No mortality or moribund animal counts were seen in the parental generation (F0) at the same dose as other adverse effects in the offspring. The degree of concern for these effects in infants and children is low because the PODs selected for risk assessment are protective of these effects.

3. Conclusion

EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1x. That decision is based on the following findings:

- the toxicity database is adequate to characterize potential pre- and postnatal risk for infants and children;
- although there were offspring and reproductive effects in the reproductive toxicity study, they occurred in the presence of parental toxicity;
- there were developmental effects in the developmental study in rats; however, these effects occurred at doses above maternal toxicity;
- there were no potential signs of neurotoxicity observed in the epyrifenacil database, including the acute neurotoxicity or subchronic neurotoxicity studies;
- clear NOAELs/LOAELs are established for the rat developmental and reproductive studies; and
- the PODs selected for risk assessment purposes are protective of the developmental and offspring effects seen in the database.

E. Aggregate Risks and Determination of Safety

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

1. Acute Risk

Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure

from food and water to epyrifenacil will occupy <1% of the aPAD for females 13–49 years old, the population group receiving the greatest exposure.

2. Chronic Risk

Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to epyrifenacil from food and water will utilize 53% of the cPAD for all infants, the population group receiving the greatest exposure. There are no residential uses for epyrifenacil.

3. Short-Term Risk

Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because there are no residential exposures, no short-term adverse effect was identified, therefore, epyrifenacil is not expected to pose a short-term risk.

4. Intermediate-Term Risk

Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because no intermediate-term adverse effect was identified, epyrifenacil is not expected to pose a intermediate-term risk.

5. Aggregate Cancer Risk for U.S. Population

Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, epyrifenacil is not expected to pose a cancer risk to humans.

6. Determination of Safety

Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to epyrifenacil residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology for plant commodities (Method RM–52C–2b, which uses a high-performance liquid chromatography method with tandem mass spectrometry detection (LC/MS/MS), and soybean and corn oil commodities (LC/MS/MS method, Method RM–52C–1a), are available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350;

telephone number: (410) 305–2905; email address: residuemethods@epa.gov.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRL) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). Codex is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established an MRL for epyrifenacil.

C. Revisions to Petitioned-For Tolerances

Based on the submitted processing studies, no separate tolerances for residues are being established for processed commodities as the proposed tolerances for corn, soybean, and wheat raw agricultural commodities cover the processed commodities. The Agency is correcting commodity definitions for rapeseed, seed; field corn grain; and wheat grain, and is establishing tolerances in/on rapeseed, seed; field corn grain; soybean seed; and wheat grain at 0.005 ppm. The Agency determined that a tolerance for field corn hulls is not necessary as it is no longer considered a feed item.

V. Conclusion

Therefore, tolerances are established for residues of epyrifenacil, ethyl [(3-{2-chloro-4-fluoro-5-[3-methyl-2,6-dioxo-4-(trifluoromethyl)-3,6-dihydropyrimidin-1(2H)-yl]phenoxy}-2-pyridyl)oxy]acetate, in or on corn, field (forage, grain, stover); rapeseed, seed; soybean (forage, hay, seed); wheat (forage, grain, hay, straw) at 0.005 ppm.

VI. Statutory and Executive Order Reviews

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

A. Executive Order 12866: Regulatory Planning and Review

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

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

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

C. Paperwork Reduction Act (PRA)

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

D. Regulatory Flexibility Act (RFA)

Since tolerance actions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the RFA, 5 U.S.C. 601 *et seq.*, do not apply to this action.

E. Unfunded Mandates Reform Act (UMRA)

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

F. Executive Order 13132: Federalism

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

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

This action does not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9,

2000), because it will not have substantial direct effects on Tribal governments, on the relationship between the federal government and the Indian Tribes, or on the distribution of power and responsibilities between the federal government and Indian Tribes.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because tolerance actions like this one are exempt from review under Executive Order 12866.

However, EPA’s 2026 *Policy on Children’s Health* applies to this action. This rule finalizes tolerance actions under the FFDCA, which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .” (FFDCA 408(b)(2)(C)). The Agency’s consideration is summarized in Unit III.D.

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

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

J. National Technology Transfer Advancement Act (NTTAA)

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

K. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 180

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

Dated: June 26, 2026.

Charles Smith,
Director, Registration Division Office of
Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

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

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

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

■ 2. Add § 180.731 to subpart C to read as follows:

§ 180.731 Epyrifenacil; tolerances for residues.

General. Tolerances are established for residues of the herbicide epyrifenacil, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only epyrifenacil, ethyl 2-[[3-[2-chloro-5-[3,6-dihydro-3-methyl-2,6-dioxo-4-(trifluoromethyl)-1(2H)-pyrimidinyl]-4-fluorophenoxy]-2-pyridinyl]oxy]acetate in or on the commodity.

TABLE 1 TO § 180.731

Commodity	Parts per million
Corn, field, forage	0.005
Corn, field, grain	0.005
Corn, field, stover	0.005
Rapeseed, seed	0.005
Soybean, forage	0.005
Soybean, hay	0.005
Soybean, seed	0.005
Wheat, forage	0.005
Wheat, grain	0.005
Wheat, hay	0.005
Wheat, straw	0.005

[FR Doc. 2026–13193 Filed 6–29–26; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 4

[PS Docket Nos. 21–346 and 15–80; ET Docket No. 04–35 FR ID 351629]

Resilient Networks; Concerning Disruptions to Communications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission

(Commission) modernizes the Disaster Information Reporting System (DIRS) to reduce reporting burdens on stakeholders and ensure that the information being collected is useful for disaster response. Our modernization allows manual filers to submit a single, dynamic form instead of multiple worksheets, and enables them to use a “one-click” option to easily indicate there is no change from the previous day’s report. Further, unnecessary fields and worksheets will be eliminated to ensure that DIRS is collecting the information that is most important for emergency response. This modernization also eliminates the requirement for service providers to file a DIRS final report within 24 hours of DIRS’ deactivation, and exempts non-facilities-based providers from DIRS reporting. This document also recognizes the emergence of public safety voice and broadband networks and the critical connectivity they provide to public safety stakeholders by requiring providers of these services to submit DIRS reports on the status of their public safety network infrastructure. Finally, we augment providers’ ability to voluntarily submit geospatial information on infrastructure affected by disasters. Together, these changes provide public safety officials with the additional information they need, while also making it easier for service providers to satisfy their reporting obligations.

DATES: Effective June 30, 2026, except for amendatory instruction 3 (47 CFR 4.18), which is delayed indefinitely. The Commission will publish a document in the **Federal Register** announcing the effective date.

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Third Report and Order (*Third Report and Order*), FCC 26–34, adopted May 20, 2026, and released May 21, 2026. The full text of this document is available by downloading the text from the Commission’s website at: <https://www.fcc.gov/document/fcc-modernizes-disaster-information-reporting-system-0>. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, 45 L Street NE, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to FCC504@fcc.gov or call

the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice).

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning possible impact of the rule and policy changes contained in the *Third Report and Order* on small entities concerning possible impact of the rule and policy changes contained in the *Third Report and Order* on small entities. The FRFA is set forth in Appendix B.

Congressional Review Act

The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is “non-major” under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this *Third Report and Order* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Paperwork Reduction Act

This *Third Report and Order* may contain new or substantively modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. All such requirements will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other federal agencies will be invited to comment on any new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis

A. Simplifying the DIRS User Interface

To simplify DIRS for manual filers and make DIRS information more useful to emergency managers, we adopt our proposal to redesign the DIRS interface to replace the ten separate DIRS worksheets with a single, dynamic form

as proposed in the *FNPRM*. Instead of completing a series of worksheets that collect overlapping information, manual DIRS filers will respond to initial questions about the services they provide in the DIRS activation area and the impacts to equipment and facilities caused by the disaster. Based upon these responses, manual filers will be presented with questions seeking information applicable only to the services the filer provides. Information that currently appears on multiple worksheets would only need to be entered once. While, as we noted, manual filers comprise a minority of providers that submit DIRS reports, many providers that manually file DIRS reports are small- or medium-sized businesses, and so this change will have an outsized effect in reducing burdens for providers whose resources may be most thinly stretched during a disaster.

The record supports our view that this step will simplify and reduce the time burden associated with manual data entry in DIRS. The National Rural Electric Cooperative Association observes that the current DIRS reporting framework is cumbersome and inefficient with many overlapping data fields. Accordingly, CTIA and others describe this, along with other measures we adopt today, as “common sense changes that would reduce burdens on providers, allowing them to direct resources towards recovery efforts without impacting the actionable information provided to public safety stakeholders through DIRS reports.” The National Association of Broadcasters (NAB) agrees that this redesign “will facilitate filing in DIRS during a disaster[.]” and NTCA adds that it will “benefit public safety agencies by allowing them to more quickly identify the status of communications in their area.” The Competitive Carriers Association (CCA) observes that these changes address a concern that is “particularly acute for small and rural carriers. Such providers often operate with limited engineering and operations teams, many of whom are simultaneously engaged in damage assessment, power restoration, and physical repairs.” No commenters oppose this proposal or express concern that its adoption would diminish DIRS’s utility.

B. Establishing a “One-Click” Filing Option

In the interest of reducing the burdens of required DIRS reporting and encouraging participation for voluntary DIRS filers, we adopt our proposal to establish a “one-click” option on the consolidated worksheet for providers to

indicate there is no change in infrastructure status from the previous day's report. Commenters agree that this would reduce time spent on manual DIRS entry while preserving the value of DIRS for emergency management officials. USTelecom states that a one-click option will "improve the efficiency" of disaster-related data collection, and an individual commenter describes this change as "monumental." In addition to saving time and streamlining DIRS report preparation, NAB believes this change "would facilitate broadcasters' voluntary participation in DIRS, especially smaller stations." As reflected in these comments, we believe this step will simplify manual DIRS report submission during DIRS activations, while also enabling providers to have more time to focus on the important task of restoring service to their customers.

We decline to extend the availability of a one-click-like option to batch filers, in addition to manual filers, as recommended by WISPA—The Association for Broadband Without Boundaries (WISPA). To satisfy their DIRS reporting obligations, batch filers already enjoy a streamlined filing process whereby they upload a provider-created spreadsheet to the Commission, the production of which may be automated by network administration systems. We disagree with WISPA that implementing the equivalent of one-click filing will enable batch filers to complete their DIRS filing obligation more easily than simply resubmitting the previous day's spreadsheet. We believe that a one-click (or near one-click) option would require substantially similar effort and time for DIRS batch filers as using the existing spreadsheet upload process, particularly for those users that leverage the DIRS Upload Application Programming Interface (API). Further, in our experience, batch filers are more likely to be larger entities providing service through many facilities in a broader geographic area than manual filers. As a result of the number of facilities on which batch filers report and the dynamic nature of service restoration during and after disasters, DIRS information for batch filers is very likely to change day-over-day, making a one-click option less useful for these types of filers.

While no commenter opposes the Commission's proposal, one commenter requests that the Commission have "a way to ensure that [] providers aren't actually skipping the daily report and are in fact checking their data to see it hasn't changed." We recognize this

valid concern. As an initial matter, we note that providers are under an obligation to report information truthfully to the Commission. To remind providers of the requirement to submit accurate information, we will also add the following language to DIRS, which the user will be required to acknowledge when clicking "submit": "By submitting this Form, you certify that the information you have provided on this Form and the attachments is true and accurate. Filers are responsible for the accuracy of the information they file with the Commission, including any data automatically populated into this Form or its attachments from other Commission databases. Failure to ensure the accuracy of information filed with the Commission may result in enforcement action." We believe this language puts providers further on notice that it is their responsibility to verify the accuracy of the information in their reports. We expect that this language will prompt providers to review any existing data before submitting their DIRS report.

C. Eliminating Unnecessary DIRS Fields and Worksheets

To further streamline DIRS reporting for both manual and batch filers, we eliminate many DIRS reporting fields and worksheets, as proposed in the *FNPRM*. The record affirms our view that the worksheets and fields we eliminate today are unnecessary because they are duplicative and/or provide little of actionable value for disaster response. We summarize the remaining DIRS fields that will be mandatory or voluntary to complete in Appendix C.

Eliminate the Inter-exchange Carrier (IXC) Blocking Worksheet. We eliminate the inter-exchange carrier worksheet, agreeing with ACA Connects which observes that the worksheet "has not proven useful for disaster response." No commenters oppose this action.

Eliminate the "Percent of Historical Capacity Available" Field from the Wireless Cell Site by County Worksheet. We eliminate the "percent of historical capacity available" field from the Wireless Cell Site by County worksheet because this field is redundant as the information it contains can be derived from other reported data. As explained by CTIA, "[t]he Commission has access to the relevant information provided in [this field] through other means, such as by measuring capacity based on the number of sites reported in operation or out of service." We agree, and find that since the Commission has the ability to calculate this percentage from other data reporting in DIRS, it is appropriate to eliminate this field from the worksheet.

No commenters disagree with this conclusion.

Consolidate Cable Telephone Subscriber Data Fields. Rather than eliminate DIRS' reporting fields for cable telephony, as proposed, we consolidate the fields for cable communications providers that request (1) the number of cable telephone subscribers served and (2) the number of VoIP subscribers served with (3) the number of cable telephony subscribers down and (4) the number of VoIP subscribers whose service is down. As a result of this action, cable communications service providers will be required to respond to only two prompts: how many cable telephony and/or VoIP subscribers do you serve, and how many of them are without service? Based on data reported in NORS and DIRS over the past year, cable communications service providers themselves often appear to be unsure whether to report voice outages as VoIP or cable telephony, resulting in inconsistent and unreliable reporting for outages of each type. Moreover, the difference between cable telephony provided via a circuit-switched network and cable telephony provided via VoIP is often not material from an emergency management standpoint. We agree with ACA Connects that eliminating the need for providers to discern between these two types of service in their DIRS reports "would substantially reduce the time burdens associated with DIRS data entry without compromising DIRS's mission." This action is also consistent with CTIA's advocacy that we eliminate duplicative fields in DIRS. We take this action to improve DIRS reporting efficiency and to save service providers precious time in DIRS reporting when their primary focus is on disaster recovery and restoring service to customers. No commenters oppose this action.

Eliminate Video Subscriber Data Fields from the Cable System and Major Equipment Worksheets. We remove the fields currently in the cable system and major equipment worksheet that request the number of video subscribers served and the number whose service is down to, consistent with NCTA's comments, "facilitate more efficient reporting by providers and [to] help maximize the time and resources that are available for network restoration." NAB and ACA Connects support our taking this step because this information is less critical for disaster response, and no commenters oppose this action.

Eliminate the "Number of Access Lines" field from the Major Equipment Worksheet. We eliminate the "number of access lines" field from the existing

major equipment worksheet because, as noted in the *FNPRM*, this information is addressed by other questions on the same worksheet that are better targeted to gathering useful information. Specifically, the major equipment worksheet requests the “number of working numbers” and the “number of working numbers down.” While there can be multiple working telephone numbers on a single access line, we do not believe it is necessary for disaster response to collect both types of data. We believe it reasonable to use “working numbers down” as a proxy for affected customers. Moreover, this field, in combination with the “number of working numbers” field, yields important information about how much of a provider’s customer base is without service. ACA Connects supports our eliminating this field step because this information is covered elsewhere on the existing major equipment worksheet, and no commenters oppose our taking this step.

Harmonize Fields on the Interoffice Facilities—TSP worksheet with NORS. We update the fields on the existing interoffice facilities—TSP worksheet by collecting information about the number of Optical Carrier circuits (or their functional equivalent) affected and eliminating the requirement to report the “number of DS3s affected (down).” For the avoidance of doubt, we emphasize that we are not eliminating required reporting for circuits that are smaller than an OC3. Required reporting on OC3s or functional equivalents will include DS3s, for example, that are transporting volumes of traffic that are the functional equivalent of an OC3. We find this important to keep pace with marketplace changes that have added capacity to today’s high-speed networks. USTelecom—The Broadband Association (USTelecom) supports harmonizing fields that currently exist on this worksheet as we proposed in the *FNPRM*, and no commenters disagreed with this modification.

Make Reporting the Number of Remote Aggregation Devices Voluntary. We make it voluntary, rather than mandatory, for providers to report the number of remote aggregation devices that are down as provided on the existing remote aggregation devices worksheet. We find that other fields on the current worksheet, specifically the “number of working numbers served” and “number of working numbers down,” collect more useful information about customer impact and pace of service restoration than the “number of [remote aggregation devices] . . . down” field. We believe we can further our goal of simplifying DIRS without

sacrificing useful information for public safety stakeholders by making this field voluntary. While this will provide an incremental time savings to those providers that elect not to complete this field in DIRS, it will enable providers to continue to share this information. ACA Connects supports our rationale for this conclusion and no commenters object to proceeding in this manner.

Make Broadband Data User Fields Voluntary. We make the collection of broadband access user information voluntary, rather than mandatory, for all DIRS filers except fixed and mobile broadband providers that are stage 2 recipients of the Uniendo a Puerto Rico Fund and Connect USVI Fund, as we proposed and as supported by NCTA, CCA, and ACA Connects. This step preserves the collection, on a voluntary basis, of information that is important to public safety stakeholders, as broadband access is a critical lifeline enabling the public to stay informed during disasters and emergencies, while still reducing burdens on providers. As CCA notes, adopting streamlining measures like this “ensure[s] providers can maximize their recovery efforts [while] critical information is shared with relevant emergency management entities.” The record supports this modification and no commenters disagree with this step.

Retain Voluntary DIRS Reporting for Satellite Providers. As a means of maintaining visibility into critical infrastructure during disasters, we decline to adopt our proposal in the *FNPRM* to eliminate the fields on satellite services. CTIA stated it “[did] not have any specific concerns about eliminating the satellite worksheet.” Notwithstanding the fact that Verizon “does not oppose” exempting satellite providers from DIRS reporting, Verizon observes that “wireless and wireline providers’ customers may rely in part on satellite capabilities during DIRS activations” and wireless and wireline providers have limited visibility into the status of satellite providers’ networks. While acknowledging that no satellite provider has ever filed in DIRS, the National Rural Electric Cooperatives Association notes that public safety officials, the Commission, and the public deserve “to have the best information available” in the event of a “powerful solar storm, ‘Kessler Syndrome’ ablation cascade, or a disaster of a type yet unknown[.]” affects satellite service. We agree that it is possible that a disaster that specifically affects satellite services could create a need for the Commission to activate DIRS; however, were we to eliminate the satellite worksheet fields as proposed, we would be unprepared

to receive daily infrastructure status updates from satellite operators, even on a voluntary basis. In light of the key role satellite service plays to enable other modes of communications and to support national security interests, we are persuaded to retain the worksheet.

We decline, however to make satellite reporting in DIRS mandatory at this time as recommended by the Foundation for Defense of Democracies in consideration of the increasing threats from China and the importance of these systems to the economy and military operations. We believe retaining the worksheet on a voluntary basis strikes the appropriate balance of enabling public safety officials to receive satellite status information through DIRS in the event there is a disaster that impacts satellite service, without burdening satellite providers with mandatory reporting obligations for circumstances that have not yet come to pass in the history of DIRS. The Commission continues to retain visibility into satellite network status through satellite providers’ ongoing mandatory obligation to report outages in NORS. Our approach ensures that the Commission will remain informed of significant impairments to satellite connectivity, preserves the ability for satellite providers to voluntarily report in DIRS should an unforeseen event warrant such reporting, all while avoiding burdening satellite providers with new mandatory reporting obligations.

Allow Providers Flexibility in Providing Location Information. We decline to adopt our proposal to improve the utility of DIRS data by requiring providers to submit location information for their affected equipment or facilities in a single format, either street address or latitude and longitude. While ACA Connects notes submitting “street addresses would be significantly less burdensome than the submission of latitude/longitude data[.]” no other stakeholder or public safety entity indicates that one format is preferable to the other for any given type of facility or equipment. Instead, industry commenters ATIS, CTIA, NTCA, and Verizon argue that providers should continue to be allowed to select their preferred format for any type of facilities or equipment. NTCA argues that maintaining our current approach would minimize “the time providers must spend completing DIRS reports.” We find that continuing to allow providers to choose which address format to use for equipment and facilities location reporting is appropriate because, as CTIA points out, equipment located in rural or remote

areas may not have a street address at all, and requiring providers to convert information that they maintain as a street address into a latitude and longitude would, as ATIS observes, result in “significant impacts on the industry.”

We find that previous delegations of authority to the Bureau are sufficiently broad to enable it to implement these modifications, as well as future modifications to DIRS and its fields that may be needed to ensure that the system continues to serve its crucial role in disaster response and recovery. As noted in the *FNPRM*, the Commission has delegated authority to the Bureau “to administer the communications disruption reporting requirements contained in part 4 of this chapter and to revise the filing system and template used for the submission of such communications disruption reports.” While no commenter challenges this delegation, some commenters seek to require the Bureau to exercise its delegated authority “subject to consultation with wireless service providers” or limited to “what is expressly authorized in the final rules.” We find it unnecessary to revise the authority delegated to the Bureau in this manner. The revision to § 4.18(a) that we adopt today will contain more specificity for PSHSB to implement as it revises the DIRS filing system and templates. We further find that it is necessary for the Bureau’s authority to be sufficiently broad to ensure that the Bureau has the flexibility to timely implement lawful changes to DIRS and otherwise maintain the system as necessary to ensure that it remains effective.

We direct the Bureau to afford providers an opportunity to test the above improvements to DIRS before they are officially released, as recommended by Verizon. This process will also allow filers to provide additional feedback on the new DIRS interface to ensure usability. We decline, however, to require the Bureau to engage in a second round of notice and comment on the look and feel of the new DIRS system, as suggested by USTelecom, ATIS, AT&T, CTIA, and WISPA. While formal notice and comment was appropriate to address the information that providers are required to file in DIRS because those changes affect their legal obligations, no such formality is needed to enable the Bureau to consider feedback from industry on its implementation of the changes contemplated herein.

D. Eliminating the DIRS Final Report

As proposed in the *FNPRM*, we eliminate the requirement for providers to file a final report in DIRS within 24 hours of DIRS’ deactivation. Many commenters argue that DIRS final reports are not useful to emergency managers. ATIS, WISPA, and WTA submit that the primary reason DIRS final reports have not been as useful in practice as the Commission intended is the “uncertainty and unknowns that will still exist right after the end of the DIRS reporting period,” which prevent providers from offering reliable, actionable service restoration estimates. We agree. In our experience, DIRS final reports have not provided emergency managers with reliable service restoration estimates, which must be made when DIRS is deactivated. Moreover, we understand from experience that the timeline for service restoration can depend on factors outside of the service provider’s control, such as the accessibility of the damaged area to service technicians or the availability of replacement parts, so it is not sensible to refer to estimates provided in the midst of an emergency as “final.” As such, we disagree with the Foundation for Defense of Democracies that the DIRS final report “ensur[es] accountability and provid[es] a definitive record for planning repairs and analyzing outages.” As we reasoned in the *FNPRM*, service restoration estimates that routinely prove incorrect cause more harm than good because reliance on those estimates leads to the misallocation of finite disaster response resources. Taking more time to consider the potential utility of these requirements, as Public Knowledge suggests we should, cannot change the fundamental difficulty of presenting DIRS information to emergency managers as “final” as if service providers can predict the future. Further, we are not persuaded to retain the DIRS final report requirement by Public Knowledge’s vague assertion that, even if this information is not valuable for immediate situational awareness, it has value as “historic information for analysis and planning.” We also do not believe it would be beneficial to retain a streamlined version of the DIRS final report requirement that providers could satisfy with “one-click.” If the Bureau believes that an additional day of DIRS reporting on infrastructure status was warranted before DIRS’s deactivation, it can obtain that information simply by keeping DIRS active for an additional day.

E. Exempting Non-Facilities-Based Providers From DIRS Reporting

To eliminate duplicative and potentially speculative DIRS reporting about infrastructure neither owned nor operated by the reporting entity, we revise our mandatory DIRS rules to apply only to facilities-based providers, exempting providers that do not own or operate their own facilities or infrastructure in the DIRS activation area. We agree with CTIA that providers that do not own or operate their own facilities or infrastructure should not report in DIRS because “their service offerings rely on the facilities of underlying service providers that already report the status of those facilities” in DIRS. In our experience, information that non-facilities-based providers submit in DIRS about the status of facilities or infrastructure that they do not own or operate tends to be either be speculative, as ACA Connects and NCTA observe, or derivative of information that the non-facilities-based provider has imposed upon the facilities-based provider to obtain, as WISPA observes. We agree with CTIA and T-Mobile that receiving information about the status of the same communications equipment from both the facilities-based provider that owns and operates that equipment and from non-facilities-based providers that rely upon that equipment to offer service introduces a risk of double counting that threatens the quality of DIRS data. It will promote our ability to quickly and reliably produce aggregated information about the status of communications equipment during disasters to receive one authoritative report about each relevant communications facility in a DIRS activation area, and we agree with ACA Connects that the report we receive should come from the party “with direct visibility into the outage and system restoration.” That provider will be in the best position to answer DIRS’ prompts about the status of the facilities or infrastructure. Eliminating reporting requirements for other providers will result in more accurate data and remove unnecessary burdens from industry.

NCTA recommends that we extend the exemption for non-facilities-based providers to NORS for the same reasons as we offer it in the context of DIRS. We reject this recommendation and continue to require mobile virtual network operators and wireless, wireline, and interconnected VoIP resellers to report outages in NORS. As the Commission has previously found, these providers are “uniquely positioned to provide information on

outages affecting their customers.” Unlike DIRS reporting’s focus on “infrastructure status” during and after disasters, non-facilities-based providers are in the best position to report in NORS about the effects of outages on their subscribers because they have visibility into the status of their own subscribers, while the underlying facilities-based providers on which they rely often do not. The Commission also relies on NORS reporting as a source of information about the root causes of all kinds of network outages and the impacts of those outages on end users, which leads “to the development of best practices and has fostered a ‘data-driven, self-improvement model.’” By maintaining the requirement that non-facilities-based providers report in NORS, the Commission preserves its insight into the impact of outages on the millions of non-facilities-based provider subscribers nationwide.

We do not adopt the *FNPRM*’s proposal to require facilities-based wireless providers to report in DIRS which mobile virtual network operators utilize their respective networks within the DIRS activation area, nor do we adopt the alternative that mobile virtual network operators identify their underlying network providers as part of a limited DIRS filing. Public Knowledge observes that there is not necessarily a simple, direct relationship between the operational status of a facilities-based provider and a non-facilities-based provider that relies upon it. As CTIA also recognizes, non-facilities-based providers often utilize the networks of multiple facilities-based providers in delivering their service. As a result, we are concerned that a list of business relationships alone would be insufficient to enable emergency managers to derive actionable insights about a disaster’s impacts on their community, irrespective of whether a facilities-based or non-facilities-based provider submits it. While there are undoubtedly examples of non-facilities-based providers that rely exclusively on a single facilities-based provider to offer service, significant risk would stem from inducing emergency managers to believe that this is always the case by requiring the disclosure of business relationships as a proxy for the availability of service to communities. While Public Knowledge argues that this complexity is grounds for the Commission to continue require non-facilities-based providers to report in DIRS, we conclude that the burdens of filing this information outweigh its public safety value.

F. Voluntarily Collecting More Information on Where Facilities Are Out of Service

We direct the Bureau to upgrade DIRS to improve the ability of filers to voluntarily submit geographic information about service areas and the locations of facilities that are out of service. As Public Knowledge puts simply, collecting more granular information for stakeholders “can improve their disaster response.” In the *FNPRM*, we specifically sought comment on whether to collect more granular information from wireless providers about the location of cell sites that are out of service. Whereas DIRS requires providers to specify the location of major equipment other than wireless cell sites, DIRS currently only requires wireless providers to complete a worksheet to specify the number of cell sites out by county. Wireless providers, however, have voluntarily submitted more granular information than DIRS requires about the location of their wireless cell sites. T-Mobile voluntarily provides cell site location data in Keyhole Markup Language. As ATIS observes, one major wireless provider has voluntarily submitted shape files in response to DIRS activation since 2017, which provide “information about cell site impacts on a very conservative measure of – 98db.” Accordingly, we agree with CTIA that collecting mapping data from service providers during DIRS activation on a voluntary basis is an approach that is working well, and we therefore do not require providers to submit any additional mapping data at this time. While providing this information in DIRS is voluntary, the Bureau may still exercise its delegated authority to require providers to provide this information in appropriate circumstances.

However, we recognize that DIRS does not offer an easy way for providers to voluntarily submit geographic information about service coverage and infrastructure location and believe that expanding that capability may induce more providers to submit that information and make DIRS easier to use for providers that do submit that information. We do not limit the submission of geographic information solely to cell site locations, but allow it for any kind of geographic information that filers believe would be useful to provide to emergency managers. We believe this flexibility was warranted in light of Verizon, CCA, and other commenters arguments that “[c]overage, not site location, is most relevant to where Wireless Emergency Alerts, 911

calls and public safety-related communications are affected during disaster events.” Upgrading DIRS to offer providers a clear way to submit a wider array of geographic information in additional formats may also reduce burdens on providers and other stakeholders.

G. Requiring DIRS Reporting for Public Safety Voice and Broadband Network Operators

To ensure that emergency managers and first responders have the information they need to stay connected during disasters, we require public safety voice and broadband network operators to submit DIRS daily reports about their infrastructure status when the Commission activates DIRS in geographic areas where they provide service. Public safety voice and broadband networks now play a vital role in keeping first responders connected during emergency response. AT&T manages and operates a nationwide public safety voice and broadband network, FirstNet, which plays a key role in enabling first responders using the network to communicate with one another and with PSAPs during emergencies. As the National Regional Planning Council states, public safety officials increasingly use FirstNet to replace older Land Mobile Radio systems for communication among first responders during emergencies. First responders use FirstNet for voice-over LTE, rich communication services and IP-based messaging to communicate with one another from a variety of operational locations, including outdoors, inside buildings, through drones and satellites, from airborne vehicles like helicopters, and from onboard maritime vessels. First responders also rely on FirstNet’s network to access key technologies that affect situational awareness, such as cameras that convey real-time or historical data; internet-connected devices and sensors that monitor weather, traffic, environmental issues, or access to secured locations; and maps and Geographic Information Systems that may provide the location of responders or assets, potential hazards, or relational information between personnel and assets. According to Verizon, its Frontline service prioritizes first responder communications on Verizon’s 5G network and provides high speed, low latency, large capacity connectivity to over 45,000 agencies. T-Mobile USA, Inc.’s (T-Mobile) T-Priority service prioritizes data-intensive communications for public safety agencies by using 5G network slicing to enable law enforcement, fire protection,

emergency medical services, and other first responders to respond to emergencies. Disruptions to services like FirstNet, Verizon Frontline, or T-Priority could be a matter of life and death for first responders or members of the public who rely on police, fire, and emergency medical services that subscribe to these services.

The *FNPRM* sought comment on whether the Commission should revamp DIRS to enable voluntary or mandatory reporting on the status of public safety voice and broadband networks. The Commission also proposed to require FirstNet to report in DIRS in 2024, and received significant support. As Public Knowledge, Communications Workers of America, and New America's Open Technology Institute observed, effective crisis response "can only happen if those responding to the crisis—and managing the response—have clear knowledge of the communications environment in as close to real time as possible." NASUCA and TURN recognized that FirstNet's "unique purpose [is] to provide robust public safety communications and, by extension, carry some of the most life-saving information across public safety stakeholders when disasters strike." And Next Century Cities observed that, "without mandatory DIRS or NORS reporting the Commission and state and local officials are left without critical information about how the nation[']s emergency services are connected." We agree with these views and find that DIRS reports are inadequate for providing actionable infrastructure status information if they do not specifically identify impacts to public safety voice and broadband network customers and efforts to restore service for public safety customers. Moreover, government stakeholders commonly request that the FCC share DIRS reports about FirstNet, but no public safety voice and broadband network operator has voluntarily provided information specific to the status of those network functions in their DIRS reports to date. Mandatory DIRS reporting will close this gap and provide critical visibility and situational awareness into these vital public-safety networks during disasters, consistent with the Commission's reasoning for previously requiring other types of providers to file in DIRS.

AT&T and Verizon oppose making public safety voice and broadband network reporting mandatory, asserting such additional reporting is unnecessary, duplicative, and may be misleading. With respect to FirstNet, AT&T's states that information about FirstNet's network status, infrastructure,

and assets is already included as part of AT&T's DIRS reporting and is provided directly to FirstNet's public safety customers via the FirstNet Central platform. Verizon acknowledges the Commission's "legitimate situational awareness interest in a wireless outage's impact on public safety users[.]" but is concerned such reporting may double-count infrastructure impacts since the same networks are used for commercial and public safety purposes, be inaccurate as providers may have different designations for what constitutes a public safety customer, and, as AT&T notes, likely duplicates information being provided directly to customers. We find that mandatory reporting for public safety voice and broadband networks in DIRS is both necessary to ensure public safety officials can respond during disasters, and, as Verizon observes, will provide important situational awareness that does not exist today regarding the status of all of these critical networks.

We find that direct reporting to enterprise customers via interfaces such as FirstNet Central is an inadequate substitute for the visibility that DIRS reporting will yield. AT&T asserts that FirstNet Central provides its users with "near real-time network status[.]" enabling FirstNet users access to more information [than DIRS], even during emergency events that do not rise to the level of a DIRS activation. We are unpersuaded by the argument that outage information public safety voice and broadband network operators share with public-safety subscribers obviates DIRS reporting. While a public safety voice and broadband network operator may share information about its network status relevant to its own customers, not all public safety customers subscribe to the same public safety voice and broadband network. During a disaster, those customers may need to communicate with public safety entities that are customers of a different public safety voice and broadband network. Thus, broader visibility to the public safety voice and broadband network ecosystem is essential to identify outages that may impede seamless communications among customers of all public safety voice and broadband networks. Through mandatory DIRS reporting, the Commission can aggregate public safety voice and broadband network status information for all such networks and provide more comprehensive visibility than any single, network-specific outage reporting platform like FirstNet Central can provide. While AT&T describes how it and "the FirstNet Authority actively

engage in state emergency operations centers during a disaster," state emergency operations centers lack access to the aggregated network status available as a result of the DIRS reporting requirements we adopt today.

Other aspects of the outage notifications provided by public safety voice and broadband network operators to their customers today further demonstrate how those notifications fail to sufficiently accomplish our goals. Information that public safety voice and broadband network operators report directly to enterprise customers is not available to state, Tribal, territorial, or Federal agencies that are not themselves FirstNet users. Additionally, while FirstNet Central may provide some outage-specific information, T-Mobile observes that FirstNet does not provide information within any specific timeframe after an outage begins, or update information at any specific interval thereafter. It is also unclear whether FirstNet Central provides its customers with outage information on a customer-specific basis, or on a larger scale such as a region, state, or for its network as a whole. Moreover, it is uncertain the extent to which FirstNet Central provides infrastructure status in addition to the information it provides on "operational status[.]" DIRS' inclusion of infrastructure status makes it more robust and useful, providing visibility to the damaged equipment that would need to be restored to reestablish critical connectivity. Aside from FirstNet, the record is silent on whether or how Verizon and T-Mobile notify Frontline and T-Priority users, respectively, of outages on their public safety voice and broadband networks, but no information about the operational status of these networks has been reported directly to the Commission, nor are we aware of state, Tribal, territorial, or Federal agencies that are not themselves Frontline or T-Priority users receiving access to this information. Verizon states that detailed service availability and restoration information is likely already being provided in accordance with contractual terms and conditions as part of the provider-enterprise customer relationship, but neither definitively states that such communications are, in fact, occurring, nor provides any specifics about those communications. Accordingly, we find that customer-specific outage communications are inadequate substitutes for the visibility and situational awareness DIRS reporting will yield for emergency management agencies and the Commission.

We require public safety voice and broadband network operators to file in DIRS irrespective of whether their service is integrated into their network or standalone. T-Mobile asserts that only FirstNet and other providers of standalone public safety networks should be required to report in DIRS, and that T-Mobile, which offers its T-Priority service through a dedicated 5G network slice, should be exempt. In our view, this distinction is immaterial. Operators of public safety voice and broadband networks can prioritize service restoration to those networks irrespective of whether they are physically or logically diverse. Network slicing allows network administrators to dynamically prioritize access (and, potentially, post-outage service restoration) to transport, backhaul, and core network functions for public safety customers during emergency response and disaster recovery efforts when network congestion is more likely to occur. Excluding such offerings from the requirement we adopt today would limit our and public safety agencies' visibility into the status of these important services based on a network architecture distinction that is irrelevant to their importance during disasters and emergencies.

To eliminate the potential for both duplicative reporting burdens and "overstating the physical and user impact of an outage," we will allow operators of public safety voice and broadband networks to satisfy their DIRS reporting obligation by indicating whether the status of their public safety voice and broadband network is the same as the status of their other network infrastructure. In the event that the status is not the same, then we require the fields in DIRS that are applicable to that network to be completed to identify specific impacts. This approach is consistent with Verizon's proposal for "a simple voluntary Yes/No checkbox field . . . that answers the question 'Public Safety Voice and Broadband Network Customers Affected?'" At the same time, we find it critical to require these providers to submit additional information to help the Commission identify public safety communications-specific impacts and restoration information, so we require them to submit the information that is appropriate for their type of network (e.g., the provider of a wireless public safety voice and broadband network shall complete the wireless service provider fields in DIRS). This approach strikes a balance that will ensure we collect important information about public safety impacts that will provide

the Commission and our federal, state, Tribal, and territorial partners with visibility into the operational status of these networks while minimizing new burdens on providers. While Verizon expresses concern about the potential for "apples-to-oranges comparisons between providers that have different designations for what constitutes a 'public safety' entity," this does not deter us from our conclusion. We think it reasonable that each public safety voice and broadband network operator will have eligibility criteria that requires customers on their respective networks to have a legitimate public safety purpose in order to subscribe. We acknowledge this criteria may not be identical across all public safety voice and broadband networks, but find this potential variance will not adversely affect our goal of capturing impacts to public safety customers. As with the other changes we implement today, we delegate authority to the Bureau to integrate public safety voice and broadband networks' infrastructure status into DIRS reporting.

H. Retaining NORS Reporting Requirements for DIRS-Lite Activations

At this time, we decline to extend the suspension of NORS reporting requirements during DIRS activations to DIRS-Lite activations, which we believe is necessary to preserve our visibility into outages that result from disasters for which we activate DIRS-Lite. By contrast to DIRS activations, the Commission activates DIRS-Lite for disasters that are less severe than those warranting a full DIRS activation. In anticipation of disaster impacts on communications services that are less severe, but that are nonetheless important for local emergency managers to understand on a day-to-day basis, the Commission can choose to collect infrastructure status information from providers by activating DIRS-Lite. When the Commission activates DIRS-Lite, it collects infrastructure status information informally, by e-mail or phone, rather than via DIRS's online interface. All information that providers offer to the Commission during a DIRS-Lite activation is submitted voluntarily; providers are not required to submit the detailed infrastructure status information that DIRS elicits. The daily cadence of infrastructure status information during DIRS-Lite activations supplements more fulsome information that providers are required to report in NORS for outages that meet the Commission's reporting thresholds. The Commission has never waived NORS reporting requirements during an activation of DIRS-Lite. Accordingly, we

disagree with ATIS, CTIA, USTelecom, and Verizon that we should waive NORS requirements during DIRS-Lite activations.

We agree with Public Knowledge that suspending NORS filing obligations during DIRS-Lite activations could create a gap in the Commission's information about network reliability by shifting the type of information that the Commission collects from information about outage root causes and subscriber impacts to information about infrastructure status at the time that network outages are most likely to occur. We also agree with Public Knowledge that extending the NORS waiver to DIRS-Lite activations may make it necessary for the Bureau to annually reconcile NORS filings, DIRS filings, and DIRS-Lite in order to maintain a complete picture of network resilience. We believe that this would pose significant administrative burdens for the Commission that outweigh the benefits of waiving NORS filings. In addition, we are not persuaded that DIRS-Lite activations present burdens to providers that would meaningfully detract from their service restoration efforts. For these reasons, we decline to extend the suspension of NORS reporting requirements to DIRS-Lite activations.

I. Compliance Timeframe

With respect to eliminating the DIRS final report and providing a filing exemption for providers that do not own or operate their own facilities, neither of these changes will necessitate technical changes to DIRS before becoming effective as the providers to which these changes apply can simply decline to file the reports in question. Accordingly, both changes to our rules shall be effective immediately upon publication of this *Third Report and Order in the Federal Register*. In addition to these amendments, the *FNPRM* proposed amendments to section 4.18(a) that specified the types of information that providers are required to report in DIRS. See *FNPRM and Order on Reconsideration*, 40 FCC Rcd at 6337. Because these amendments reflect information that is currently required to be reported in DIRS and do not impose any new obligations on providers, we also make those amendments effective immediately upon publication of this *Third Report and Order in the Federal Register*. However, we expect that many of the steps that we take today to streamline DIRS, including the creation of a dynamic form, the elimination of unnecessary fields, and the creation of a field to collect more granular location information, will require additional

time to modify DIRS. We direct the Bureau to implement the necessary technical modifications to DIRS to effectuate the improvements described in this *Report and Order*, work with stakeholders to share information about and test the improvements to help facilitate any modifications to their reporting practices, and release a Public Notice to notify stakeholders when those improvements have been implemented.

We require public safety voice and broadband network operators to begin reporting in DIRS on the later of (i) 30 days after the Bureau announces that the Office of Management and Budget has completed its review of this requirement pursuant to the Paperwork Reduction Act and that DIRS is ready to receive public safety voice and broadband network operators' filings; or (ii) November 30, 2026. We believe that this approach will provide sufficient time for public safety voice and broadband network operators to make any necessary adjustments to their existing reporting processes to comply with the new requirement and to adjust to DIRS modifications.

J. Assessing the Benefits and Costs

We conclude that the rules we adopt today to reduce the burdens of DIRS reporting on service providers, along with new mandatory DIRS reporting requirements for public safety voice and broadband network operators, will result in annual cost savings of approximately \$4 million, which outweighs the approximately \$176,000 one-time cost and the \$72,000 annual recurring cost to implement these changes. The approximate \$4 million benefit estimate includes cost savings of \$143,000 for streamlining the filing process and eliminating the final report requirement for facilities-based voice providers and \$3.9 million from eliminating DIRS reporting obligations for mobile virtual network operators and VoIP resellers. The cost estimates include a \$176,000 one-time cost for DIRS batch filing reconfiguration, and an annual cost of \$72,000 for public safety voice and broadband networks to report outages when DIRS is activated. We find that these net cost savings, along with the public safety benefits that will flow from our actions will outweigh any new costs and any potential effects on public safety from the Commission no longer receiving and sharing certain types of infrastructure status information.

By removing the need for providers to select from the current array of ten separate forms concerning different types of service and infrastructure, we

find that manual filers should be able to complete their filings more quickly. In addition, we find that eliminating unnecessary and duplicative fields will allow DIRS filings to be submitted more quickly. To quantify these cost savings, we use the methodology that we proposed in the *FNPRM*. Consistent with the *FNPRM*, based on staff estimation using the most recent available data, at the county-level, there are on average 53 fixed voice providers, including cable communications, wireline, and VoIP providers per county. Among these, an average of 12 fixed voice providers are facilities-based, and 41 are non-facilities based resellers. We further estimate that there are an average of six facilities-based mobile wireless voice providers and 82 mobile virtual network operators per county. Consistent with the *FNPRM*, we estimate the overall recurring cost savings to providers arising from modifying DIRS to simplify filing to be approximately \$143,000 annually. We arrive at this figure by reducing by 20%, on average, the time we estimate providers will spend filing DIRS reports and by eliminating the cost burden associated with the requirement to provide a DIRS final report. We estimate the cost saving from streamlining DIRS reporting with a (20% cost reduction) $\times$ 1 office and administrative support worker $\times$ (\$35.22 hourly compensation) $\times$ [(10/60) hours for the initial entry + (10/60) hours for daily updates $\times$ 14 days] $\times$ 339 counties $\times$ 18 facilities-based service providers = \$107,456. DIRS filers will realize these cost savings on an annually recurring basis; therefore, these savings will exceed the one-time implementation costs associated with these changes. We further estimate a \$35,819 cost saving from eliminating the final reporting requirement as 1 office and administrative support worker $\times$ (\$35.22 hourly compensation) $\times$ (10/60) hours for the final report entry $\times$ 339 counties $\times$ 18 facilities-based service providers = \$35,819. The aggregate cost saving is \$143,275 (= \$107,456 + \$35,819), which we round to \$143,000. For labor costs, the *FNPRM* used an hourly compensation figure of \$35.22, which remains consistent with the most recent available wage data. The most recent available data suggests a base hourly wage for an office and administrative support worker of \$24.12/hour. Consistent with the *FNPRM*, we calculate the applicable benefits markup by using Bureau of Labor Statistics data, as of December 2025, where civilian wages and salaries averaged \$33.45/hour and benefits averaged \$15.33/hour.

Using these figures, we calculate that benefits constituted a markup of \$15.33/33.45 ~ 46%. Taking 46% for cost of benefits (\$11.10/hour), we determine an hourly compensation of \$35.22/hour (\$24.12/hour + \$11.10/hour). We acknowledge that a batch filer in DIRS may incur one-time costs "to reconfigure its systems to reorganize how it exports data, and to ensure that the data is formatted in a manner accepted by DIRS" and find those costs to be approximately \$176,000. The most recent available data suggests a base hourly wage for a database administrator of \$51.65/hour. Taking 46% for cost of benefits (\$23.76/hour), we arrive at an hourly compensation of \$75.41/hour (which equals \$51.65/hour plus \$23.76/hour using our methodology for benefits markup). We revise our facilities-based estimate in the *FNPRM*, to estimate a total cost of \$175,479 = 1 database administrator $\times$ \$75.41/hour $\times$ 1 hour $\times$ 2,327 facilities-based cable, wireline, wireless, and interconnected VoIP providers, which we round to \$176,000. Note that in the *FNPRM*, we used the county average estimate for facilities-based providers in counties where DIRS is activated, whereas the one-time cost here applies to all providers that have set up their systems for batch-filing. On our own initiative, we update the one-time cost calculation to reflect this. Because we do not have data on the total number of batch-filers, we conservatively use the sum of all facilities-based cable, wireline, wireless, and interconnected VoIP as a cost ceiling (*i.e.*, the maximum possible number of batch filers). This consists of 53 wireless facilities based providers and 2,274 wireline end-user switched access and interconnected VoIP providers based on the most recent Voice Telephone Services Report.

Our action today to exclude non-facilities-based providers from mandatory DIRS reporting will result in considerable savings for these providers. We find there will be an estimated \$3.9 million annual cost savings for these categories of providers, as explained in the *FNPRM*. We estimate the cost saving as follows: 1 office and administrative support worker working at a wage rate of \$35.22 per hour working for ten minutes on the initial entry and ten minutes for each daily update multiplied by the 14-day average period of a DIRS activation plus the ten minutes saved as a result of no longer having to submit a final report multiplied by 339 counties in which DIRS is activated, on average, each year, multiplied by the sum of the nation's estimated 82 mobile virtual network

operators and 41 resellers. The result of this calculation is \$3,916,182, which we round to \$3.9 million. No commenters opposed our estimated cost savings or methodology.

Expanded reporting for public safety voice and broadband network operators will bring new visibility to the status of these critical networks and the essential first responders and emergency management customers who rely on those networks to perform life-saving recovery work. We estimate that the cost of public safety voice and broadband network operators reporting infrastructure status information in DIRS will not exceed approximately \$72,000 annually. We update that calculation as follows: $(1 - 20\% \text{ cost saving}) \times \{1 \text{ office and administrative support worker} \times (\$35.22/\text{hour}) \times [(10/60) \text{ hours for the initial entry} + (10/60) \text{ hours for daily updates} \times 14 \text{ days}] \times 339 \text{ counties} \times 3 \text{ public safety voice and broadband network operators}\} = \$71,637$, which we round to \$72,000. As proposed, we calculate the annual costs for public safety voice and broadband network operators filing in DIRS by applying the hourly wage of an office and administrative support worker (\$35.22) multiplied by the amount of time we estimate for these providers to enter initial contact information and file one daily status update in DIRS for each day of the 14-day average duration of a DIRS activation. We note that this figure is likely conservatively high because of our actions to eliminate duplicative reporting burdens, including allowing operators of public safety voice and broadband networks to satisfy their DIRS reporting obligation by indicating whether the status of their public safety voice and broadband network is the same as the status of their other network infrastructure.

Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *Resilient Networks; Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications Third Further Notice of Proposed Rulemaking (Third Further Notice)* released in August 2025. The Commission sought written public comment on the proposals in the *Third Further Notice*, including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA and it (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Final Rules

The Commission's rules require cable communications, wireless, wireline and interconnected VoIP providers to report network outages in the Commission's Disaster Information Reporting System (DIRS) when it is activated. Today's *Third Report and Order* reduces DIRS-related burdens faced by small and other service providers and government agencies so that they can dedicate more resources to restoring and maintaining communications services during a disaster. The *Third Report and Order* makes the following changes to DIRS: Redesigning the DIRS user interface to streamline reporting for service providers who enter information in DIRS manually so these filers can submit information more efficiently; Eliminating fields and reports that are not core to public safety disaster response and recovery needs to reduce the information collection burden for manual and batch DIRS filers; Eliminating DIRS final reports for mandated DIRS filers; and Exempting non-facilities-based providers from requirements to report in DIRS.

The *Third Report and Order* also supports the collection of new information that would offer significant public safety value during disasters, namely requiring reporting on infrastructure status by public safety voice and broadband network operators, and allowing all DIRS filers to voluntarily submit granular location maps, such as maps of downed cell sites. The Commission believes that the improvements to DIRS in the *Third Report and Order* strike the appropriate balance of reducing regulatory burdens for providers while ensuring collection of necessary and relevant information when disasters occur.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

Comments were filed by the Competitive Carriers Association (CCA), the National Association of Broadcasters (NAB), and WTA—Advocates for Rural Broadband (WTA) addressing the impact of the proposed rules on small entities. The Competitive Carriers Association (CCA) observes that redesigning the DIRS interface to replace the ten separate DIRS worksheets with a single, dynamic form addresses a concern that is “particularly acute for small and rural carriers. Such providers often operate with limited engineering and operations teams, many of whom are simultaneously engaged in damage assessment, power restoration,

and physical repairs.” WTA, whose members are small, rural local telecommunications carriers, also explain that “[s]treamlining the DIRS reporting requirements is important to WTA's members, who do not have any “surplus staff” to deal with regulatory burdens, particularly when disasters strike.” NAB discussed its support for a “one-click” option in DIRS that would allow providers to indicate there is no change in infrastructure status from the previous day's report. NAB notes that in addition to saving time and streamlining DIRS report preparation, this change “would facilitate broadcasters' voluntary participation in DIRS, especially smaller stations.” The Commission agrees with these views and adopts both of these changes to DIRS.

C. Response to Comments by the Chief Counsel for the Small Business Administration Office of Advocacy

Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy, and to also provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the adopted rules. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act (SBA). A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

Our actions, over time, may affect small entities that are not easily categorized at present. We therefore

describe three broad groups of small entities that could be directly affected by our actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, “small organizations” are not-for-profit enterprises that are independently owned and operated and not dominant their field. While we do not have data regarding the number of

non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, “small governmental jurisdictions” are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

The rules adopted in the *Third Report and Order* will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Where available, we also provide additional information regarding the number of potentially affected entities in the identified industries below.

TABLE 1—2022 U.S. CENSUS BUREAU DATA BY NAICS CODE

[Footnotes specify potentially affected entities within a regulated industry where applicable]

Regulated industry	NAICS code	SBA size standard	Total firms	Total small firms	% Small firms
Radio Broadcasting Stations	516110	\$47 million	2,616	2,136	81.65%
Television Broadcasting Stations	516120	\$47 million	413	316	76.51
Media Streaming Distribution Services, Social Networks, and Other Media Networks and Content Providers.	516210	\$47 million	5,217	3,673	70.40
Wired Telecommunications Carriers	517111	1,500 employees	3,403	3,027	88.95
Wireless Telecommunications Carriers (except Satellite)	517112	1,500 employees	1,184	1,081	91.30
Telecommunications Resellers	517121	1,500 employees	955	847	88.69
Satellite Telecommunications	517410	\$44 million	332	195	58.73
All Other Telecommunications	517810	\$40 million	1,673	1,007	60.19

TABLE 2—TELECOMMUNICATIONS SERVICE PROVIDER DATA

2024 Universal service monitoring report telecommunications service provider data (data as of December 2023)		SBA size standard (1,500 employees)		
Affected entity	Total number FCC Form 499A filers	Small firms	% Small entities	
Competitive Local Exchange Carriers (CLECs)	3,729	3,576	95.90	
Incumbent Local Exchange Carriers (Incumbent LECs)	1,175	917	78.04	
Interexchange Carriers (IXCs)	113	95	84.07	
Local Exchange Carriers (LECs)	4,904	4,493	91.62	
Local Resellers	222	217	97.75	
Telecommunications Resellers	633	615	97.16	
Toll Resellers	411	398	96.84	
Wired Telecommunications Carriers	4,682	4,276	91.33	
Wireless Telecommunications Carriers (except Satellite)	585	498	85.13	
Wireless Telephony	326	247	75.77	

TABLE 3—BROADCAST ENTITY DATA

Broadcast station owners (as of August 8, 2025)		SBA size standard (\$47 million)		
Affected entity	Number commercial licensed	Small firms	% Small entities	
Radio Stations (AM & FM) Groups	2,881	2,863	99.38	
Television Stations	171	142	83.04	

TABLE 4—CABLE ENTITIES DATA

Cable entities	Size standard	Total firms	Small firms	% Small firms in industry
Cable System Operators (Telecom Act Standard) Small Cable Operator.	Serves fewer than 498,000 subscribers, either directly or through affiliates.	530	524	98.87
Cable Companies and Systems (Rate Regulation) Small Cable Company.	Serves 400,000 or fewer subscribers nationwide	530	523	98.51

TABLE 4—CABLE ENTITIES DATA—Continued

Cable entities	Size standard	Total firms	Small firms	% Small firms in industry
Cable Companies and Systems (Rate Regulation) Small Cable System (headends).	Serves 15,000 or fewer subscribers	4,545	3,965	87.24

E. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

The RFA directs agencies to describe the economic impact of adopted rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

The Commission estimates that the reduction the burdens of DIRS reporting on small and other communications service providers, will result in annual recurring cost savings for small entities. By removing the need for providers to select from the current array of ten separate forms concerning different types of service and infrastructure, the Commission expects that manual filers should be able to complete their filings more quickly. In addition, the Commission expects that eliminating unnecessary and duplicative fields will also allow DIRS filings to be submitted more quickly. The Commission estimates the overall recurring cost savings to small providers arising from modifying DIRS to simplify the filing process to annually be approximately \$23.48 for each county in which a small provider operates. The Commission arrives at this figure by reducing by 20%, on average, the time we estimate that small and other providers will spend filing DIRS reports and by eliminating the cost burden associated with the requirement to provide a DIRS final report. The Commission acknowledges that a batch filer in DIRS may incur one-time costs “to reconfigure its systems to reorganize how it exports data, and to ensure that the data is formatted in a manner accepted by DIRS” and find those costs to be \$75.41 per small entity.

In addition, the exclusion of small and other non-facilities-based providers from mandatory DIRS reporting will result in an estimated \$3.9 million annual cost savings. The Commission estimates the cost saving as follows: one office and administrative support worker working at a wage rate of \$35.22 per hour, working for ten minutes on

the initial entry and ten minutes for each daily update, multiplied by the 14-day average period of a DIRS activation. Added to this is the ten minutes saved due to no longer having to submit a final report. This total is then multiplied by the 339 counties in which DIRS is activated, on average, each year, and further multiplied by the sum of the nation’s estimated 82 mobile virtual network operators and 41 resellers. The result of this calculation is an annual cost savings of \$93.92 for each county in which a small MVNO or small reseller operates.

Expanded reporting for public safety voice and broadband network operators will bring new visibility to the status of these critical networks and the essential first responders and emergency management customers who rely on those networks to perform life-saving recovery work. The Commission estimates that small entities will not be impacted by the public safety voice and broadband network operators reporting infrastructure status information in DIRS requirement since the providers it would likely apply to are not considered small entities.

F. Discussion of Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to provide “a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.”

In the *Third Report and Order*, the Commission takes several steps that could reduce the economic impact for small entities. As noted above, our actions reduce DIRS-related burdens faced by small and other service providers and government agencies so that they can dedicate more resources to restoring and maintaining communications services during a disaster. These burden-reducing actions include streamlining the DIRS user

interface eliminating unnecessary fields; eliminating DIRS final reports for mandated DIRS filers; and exempting non-facilities-based providers from requirements to report in DIRS. The Commission also considered additional ways to reduce burdens on DIRS filers that were proposed by commenters and adopted some of those proposals. In some instances, the Commission declines to make changes to DIRS on which it sought comment that had the potential to further reduce burdens, such as eliminating the voluntarily DIRS satellite form, because the potential public safety value of collecting the information outweighed the potential reduction in costs.

The Commission declines to adopt its proposal to require facilities-based wireless providers to identify which non-facilities-based providers utilize their networks within the DIRS activation area, nor does the Commission adopt the alternative that mobile virtual network operators identify their underlying network providers. The Commission is persuaded by the record that a list of business relationships alone would be insufficient to enable emergency managers to derive actionable insights about a disaster’s impacts on their community, and therefore requiring the reporting of this information would be unnecessarily burdensome on small and other providers.

The Commission adopts new requirements for public safety voice and broadband network operators to report in DIRS in light of the vital role these services play in keeping first responders connected during emergency response and the need to provide visibility and situational awareness into these vital public-safety networks during disasters while only imposing costs on a small number of operators. The Commission considers whether direct reporting to enterprise customers via interfaces such as FirstNet Central would be an adequate substitute for DIRS reporting, but finds that that approach would not yield information that was comprehensive to accomplish these public safety goals.

The Commission also declines to extend the suspension of NORS reporting requirements during DIRS

activations to DIRS-Lite activations to preserve visibility into outages during those activations. While this suspension would reduce filing burdens on small and other providers, the Commission finds that this would receive far less specific information that it currently receives about outages for a much smaller number of providers, which would create a gap in its situational awareness about network reliability and result in an incomplete picture of the weak points in critical communications infrastructure. The Commission also finds that this would pose significant administrative burdens that outweigh the benefits of suspending the requirement. The Commission is also not persuaded that DIRS-Lite activations present burdens to providers that would meaningfully detract from their service restoration efforts.

Ordering Clauses

Accordingly, *it is ordered* that the *Third Report and Order* in PS Docket Nos. 21–346 and 15–80 and ET Docket No. 04–35 *is adopted*.

It is further ordered that the Office of Managing Director, Performance Program Management, *shall send* a copy of this *Third Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

It is further ordered that this *Third Report and Order* *shall be effective* upon publication in the **Federal Register**.

List of Subjects in 47 CFR Part 4

Airports, Communications common carriers, Communications equipment, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Aleta Bowers,

Federal Register Liaison Officer, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 4 as follows:

PART 4—DISRUPTIONS TO COMMUNICATIONS

- 1. The authority citation for part 4 is revised to read as follows:

Authority: 47 U.S.C. 34–39, 151, 154, 155, 157, 201, 214, 218, 251, 301, 303, 307, 309, 316, 332, 403, 615, 615a–1, 615b, 1302(a), 1302(b), 1421, 1426, and 1433; 5 U.S.C. 301; and E.O. 10530, 19 FR 2709, 3 CFR, 1954–1958 Comp., p. 189.

- 2. Amend § 4.18 by:

- a. Revising the section heading and paragraph (a) introductory text; and
- b. Removing and reserving paragraph (a)(2).

The revisions read as follows:

§ 4.18 Mandatory Disaster Information Reporting System (DIRS) reporting.

(a) Cable Communications, Wireline, Wireless, and Interconnected VoIP providers that own or operate their own facilities shall be required to report their infrastructure status information each day in the Disaster Information Reporting System (DIRS) when the Commission activates DIRS in geographic areas in which they provide service, even when their reportable infrastructure has not changed compared to the prior day. These providers are subject to mandated reporting in DIRS and shall:

* * * * *

- 3. Delayed indefinitely, further amend § 4.18 by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 4.18 Mandatory Disaster Information Reporting System (DIRS) reporting.

(a) Cable communications, wireline communications, wireless service, and interconnected VoIP providers that own or operate their own facilities shall submit daily reports on their infrastructure status in the Disaster Information Reporting System (DIRS) when the Commission activates DIRS in geographic areas in which they provide service, even when their reportable infrastructure has not changed compared to the prior day. These providers shall include in their reports the following information about areas in which the Commission has activated DIRS:

(1) Cable communications providers shall submit information concerning the type, power status, location, and identifying information of any major equipment that is down.

(2) Wireline communications providers shall submit information concerning the type, power status, location, and identifying information of any major equipment that is down; the quantity of working telephone numbers for which the provider provides service, and the quantity of such numbers that are without service; the name, service area, and number of customers served by any Public Safety Answering Point (PSAPs) for which the provider provides service; the number of Optical Carrier 3 (OC3) circuits or their equivalents that are down; and the location, identifying information, and quantity of working numbers served by any remote aggregation device, and the quantity of such numbers that are without service.

(3) Wireless service providers shall submit information concerning the type, power status, location, and identifying information of any major equipment that is down; the number and location of cell sites that are down or on backup power; and the cause of any cell site outages.

(4) Interconnected VoIP providers shall submit information concerning the type, power status, location, and identifying information of any major equipment that is down; the number of interconnected VoIP service subscribers without service; and the number of OC3 circuits or their equivalents that are down.

(5) Cable communications, wireline communications, and interconnected VoIP providers that are stage 2 recipients of the Uniendo a Puerto Rico Fund and Connect USVI Fund shall also submit information concerning the quantity of broadband internet access service subscribers for whom the provider provides service, and the quantity of such subscribers who are without service.

* * * * *

(c) Public safety voice and broadband network operators shall submit information in DIRS concerning the status of infrastructure used by that network. They shall submit information that is applicable to the characteristics of the network (*e.g.*, the provider of a wireless public safety voice and broadband network shall complete the wireless service provider fields in DIRS). Facilities-based cable communications, wireline communications, wireless service, and interconnected VoIP providers that operate public safety voice and broadband networks shall identify the status of the infrastructure relied upon by the public safety voice and broadband network in addition to identifying the status of their infrastructure overall.

[FR Doc. 2026–13155 Filed 6–29–26; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648****[Docket No. 260625–0153]****RIN 0648–BO26****Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Amendment 25 (Revised)**

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

ACTION: Final rule.

SUMMARY: NMFS implements regulations to incorporate revised Atlantic cod stock units into the Northeast Multispecies Fishery Management Plan (FMP), and set status determination criteria (SDC), specifications, and commercial and recreational management measures, for the four new cod stocks, as proposed. This action also sets other recreational cod measures necessary for the fishery. The purpose of this action is to prevent overfishing, ensure rebuilding, and help achieve optimum yield in the Northeast multispecies (groundfish) fisheries consistent with the status of the stocks and requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: This rule is effective June 30, 2026.

ADDRESSES: Copies of Amendment 25 (Revised), including the draft Environmental Assessment (EA), the Regulatory Impact Review, and the Regulatory Flexibility Act Analysis prepared by the Council in support of this action, are available from Dr. Cate O’Keefe, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents are also accessible via the internet at: <https://www.nefmc.org/management-plans/northeast-multispecies> or <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Liz Sullivan, Fishery Policy Analyst, phone: 978–282–8493; email: Liz.Sullivan@noaa.gov.

SUPPLEMENTARY INFORMATION: The Northeast Multispecies FMP specifies the management measures for 13 groundfish species, both target and non-

target. The Northeast Multispecies FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 648, consistent with the requirements of the Magnuson-Stevens Act. The groundfish fishery includes recreational and commercial components. Members of the commercial fishery choose whether to fish as part of the sector program or the common pool. Annually, the commercial groundfish fishery has a value of approximately \$40 million (ex-vessel revenue from the most recent complete fishing year). Recreational fisheries, including the recreational groundfish fishery, contribute substantial value to the regional and national economies.

Background

The New England Fishery Management Council (Council) adopted Amendment 25 (Revised) to the Northeast Multispecies FMP on September 24, 2025. The Council submitted Amendment 25 (Revised), including a draft EA, for NMFS approval on December 15, 2025. NMFS published a notice of availability for Amendment 25 (Revised) on January 13, 2026 (91 FR 1257), with a 60-day comment period that closed on March 16, 2026. NMFS published a proposed rule for Amendment 25 (Revised) on March 18, 2026 (91 FR 12993), with a 30-day public comment period that ended on April 17, 2026. On April 6, 2026, the Greater Atlantic Office’s Regional Administrator, Michael Pentony, approved Amendment 25 (Revised) on behalf of the Secretary of Commerce. This final rule implements the Amendment 25 (Revised) management measures, as proposed.

Under the provisions of the Magnuson-Stevens Act, on behalf of the Secretary of Commerce, NMFS approves, disapproves, or partially approves measures that the Council proposes, after reviewing for consistency with the Act and other applicable law. Relying on the research and management track assessments; other scientific, commercial, and fishery data; economic, social, and ecological information and expertise; and public comments from numerous public meetings, the Council developed Amendment 25 (Revised) to specify SDC, overfishing limits (OFL), acceptable biological catches (ABC), and annual catch limits (ACL), and set other management measures for all four cod stocks that are necessary to achieve optimum yield, prevent overfishing, and ensure accountability. NMFS reviews recommended regulations for consistency with the fishery

management plan, plan amendments, the Magnuson-Stevens Act, and other applicable law.

Based on information provided in the EA and considered during the preparation of this action, and after consideration of public comments, NMFS has approved all of the measures in the Amendment 25 proposed rule, as recommended by the Council, and as described below. The Amendment 25 (Revised) measures implemented in this final rule:

- Incorporate the revised Atlantic cod stock unit definitions for Georges Bank (GB) cod, Eastern Gulf of Maine (EGOM) cod, Western GOM (WGOM) cod, and Southern New England (SNE) Atlantic cod into the Northeast Multispecies FMP;

- Set SDCs for the Atlantic cod stocks;

- Set specifications including catch limits for four cod stocks: GB cod for fishing year 2026; and EGOM cod, WGOM cod, SNE cod for fishing years 2026–2027;

- Define the apportionment method for setting the WGOM cod commercial sub-ACL;

- Establish the management uncertainty buffers for the Atlantic cod stocks;

- Set recreational sub-ACLs for WGOM cod and SNE cod;

- Establish common pool trimester total allowable catch (TAC) distributions, TAC closure areas, and baseline common pool trip limits for the Atlantic cod stocks;

- Set recreational measures for SNE cod; and

- Establish a regulatory process for the Regional Administrator to set recreational measures for GB and EGOM cod for fishing year 2026.

In addition to the measures recommended by the Council in Amendment 25 (Revised), this action also implements measures that are not part of Amendment 25 (Revised) but are implemented under section 305(d) authority in the Magnuson-Stevens Act to make changes necessary to carry out the FMP. Through this rulemaking, NMFS is implementing recreational management measures for WGOM, EGOM, and GB cod pursuant to this authority. These measures are dependent on the incorporation of the new stocks of cod into the FMP.

Atlantic Cod Stock Unit Definitions

Since the initial development of the FMP in 1985, the fishery has been managed based on two Atlantic cod biological stock units: Gulf of Maine (GOM) cod and GB cod. Amendment 25 (Revised) revises the FMP to reflect four

cod biological stock units as defined in the 2023 Research Track Assessment of Atlantic Cod: EGOM cod; WGOM cod; GB cod; and SNE cod. A peer review of the 2023 research track assessment accepted the outcomes of that assessment and its determination on the four-stock unit structure for cod, and this represents the best scientific

information available. A copy of the Summary Report of the Atlantic Cod Research Track Stock Assessment Peer Review is available at: <https://www.fisheries.noaa.gov/s3//2023-08/PanelSummaryReportoftheAtlantiCodRTPeerReviewAugust172023-mlt-508-8-23-23ajd-508gw.pdf>. In order to implement the management areas for the four new cod

stocks, which are used for possession limits, minimum sizes, sector quotas, and other programs that are part of the Northeast Multispecies FMP, this action defines the geographical areas for the four cod stocks and management units in the Code of Federal Regulations (CFR) (see figure 1 and the regulatory text below).

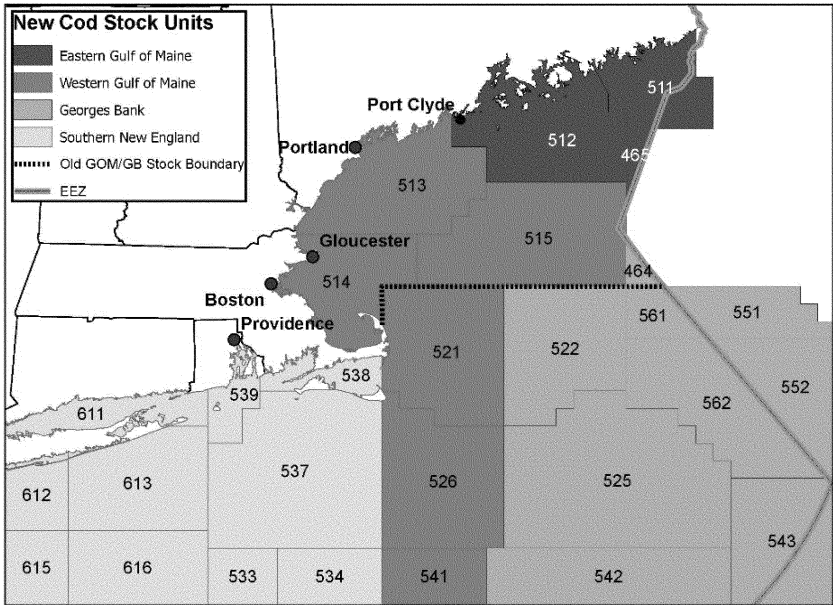


Figure 1—Map of New Atlantic Cod Stock Units

Status Determination Criteria

Section 303(a)(10) of the Magnuson-Stevens Act requires FMPs to specify objective and measurable criteria, *i.e.*, SDCs, for identifying when a stock is

overfished or is experiencing overfishing. This action establishes SDCs for EGOM, WGOM, GB, and SNE cod, and provides numerical estimates of these criteria, in order to incorporate the results of the 2024 stock assessments and based on the peer reviewed recommendations from the 2024 stock

assessments. Table 1 provides the SDCs for EGOM, WGOM, GB and SNE cod, and table 2 provides the resulting numerical estimates of the SDCs. These numerical estimates would be updated in subsequent stock assessments, as needed.

TABLE 1—STATUS DETERMINATION CRITERIA

Stock	Biomass target (SSB _{MSY} or Proxy)	Minimum biomass threshold	Maximum fishing mortality threshold (F _{MSY} or proxy)
EGOM cod	SSB _{MSY} proxy	1/2 B _{MSY}	F=40 percent of proxy
WGOM cod	SSB _{MSY} proxy	1/2 B _{MSY}	F=40 percent of proxy
GB cod	SSB _{MSY} proxy	1/2 B _{MSY}	F=40 percent of proxy
SNE cod	SSB _{MSY} proxy	1/2 B _{MSY}	F=40 percent of proxy

SSB = spawning stock biomass; MSY = maximum sustainable yield; B = biomass; F = fishing mortality.

TABLE 2—NUMERICAL ESTIMATES OF STATUS DETERMINATION CRITERIA

Stock	Model/ approach	B _{MSY} or proxy (mt)	F _{MSY} or proxy	MSY (mt)
EGOM cod	WHAM ...	2,184	0.27	476
WGOM cod	WHAM ...	62,677	0.19	11,271
GB cod	WHAM ...	8,290	0.23	1,930
SNE cod	WHAM ...	11,258	0.12	1,317

WHAM = Woods Hole Assessment Model; mt = metric tons.

Specifications for Fishing Years 2026–2027*Overfishing Limits and Acceptable Biological Catches*

This action implements catch limits for GB cod for the 2026 fishing year and EGOM cod, WGOM cod, SNE cod for

the 2026–2027 fishing years, based on stock assessments completed in 2024 (see table 3), replacing the fishing year 2026 default specifications for GOM cod and GB cod (91 FR 22467, April 27, 2026). Specifications for fishing year 2027 are projections that would be considered and reaffirmed or adjusted

in the annual framework adjustment for 2027. The GB cod ABC may be revised through Framework 72 to the FMP, which the Council voted to submit to NMFS for review on December 3, 2025. If approved, the Framework 72 GB cod ABC would replace and increase the GB cod ABC implemented here.

TABLE 3—FISHING YEARS 2026–2027 OVERFISHING LIMITS AND ACCEPTABLE BIOLOGICAL CATCHES FOR ATLANTIC COD STOCKS
[Mt, live weight]

Stock	2026		2027	
	OFL	U.S. ABC	OFL	U.S. ABC
EGOM Cod	50	39	39	30
WGOM Cod	603	460	769	586
GB Cod *	433	106	.....	.....
SNE Cod	47	36	65	36

Note: An empty cell indicates no OFL/ABC is adopted for that year. These catch limits would be set in a future action.

* If approved, Framework 72 would replace the 2026 specifications with an OFL of 473 mt and a U.S. ABC of 151 mt.

*Annual Catch Limits***Development of Annual Catch Limits**

Implementing the transition from two to four stocks of Atlantic cod requires updates to the current system of setting catch limits for the cod stocks, including setting recreational sub-ACLs as needed, developing a method for applying potential sector contributions (PSC) to the new cod stocks, and establishing management uncertainty buffers for the new cod stocks. Tables 4 and 5 provide the catch limits for the 2026 and 2027 fishing years.

This action creates a recreational sub-ACL for WGOM cod and allocates 27.5 percent of the WGOM cod ABC to the recreational fishery. The remaining 72.5 percent of the ABC is distributed between commercial fisheries, including commercial groundfish, State, and other Federal fisheries. This action also creates a recreational sub-ACL for SNE cod and allocates 73.5 percent of the SNE cod ABC to the recreational fishery, after first reducing the ABC to account for catch from State and other Federal fisheries. The remaining 26.5 percent would be allocated to the commercial groundfish fishery. A recreational allocation of SNE cod is necessary to provide accountability to every segment of the fishery that catches this stock, and to develop more segment-specific management measures that more effectively reduce fishing mortality for such segments.

This action does not change an individual's qualifying fishing history or the way an individual vessel's PSC contributes to a sector's cumulative PSC. To allocate to sectors and common pool vessels, NMFS will continue to

apply the existing sector PSCs for the previous GOM and GB cod stocks to the commercial groundfish sub-ACL to calculate the sector and common pool sub-ACLs as follows: For EGOM cod, the GOM cod PSCs will be used; and for the revised GB cod and SNE cod, the GB cod PSCs will be used. This is because, for each of these stocks, the new stock area falls completely within the old stock area on which the PSC is based.

The WGOM cod stock area is made up of three statistical areas (513, 514, 515) that were previously in the GOM cod stock area and three statistical areas (521, 526, 541) that were previously in the old GB cod stock area (see figure 1). This action implements an apportionment method that applies existing sector PSCs to the new stock area to approximate sector vessels' catch performances in the old stock areas as closely as practicable, while facilitating effective conservation and management of the new stocks. The commercial groundfish sub-ACL for WGOM cod is divided into a northern and southern portion, which correspond to the areas previously within the GOM cod and old GB cod stock areas, respectively. The apportionment, described more fully in the proposed rule, results in 68 percent of the commercial groundfish sub-ACL from the northern portion and 32 percent from the southern portion. More information regarding the analyses conducted to support this decision is included in appendix III (Development of Phase I Cod Transition—Sector Allocation Bridge Approach) of the Amendment 25 (Revised) EA.

The WGOM cod commercial groundfish sub-ACL will be divided by these percentages, and the GOM cod

and GB cod PSCs will be applied to the northern and southern portions, respectively, before being recombined to calculate total WGOM cod sector and common pool sub-ACLs. Therefore, a sector will be allocated WGOM cod based on its GOM cod and GB cod PSC, and could fish that quota throughout the WGOM cod stock area. These measures are expected to facilitate catch accounting and accountability that would help achieve biological conservation, manage stocks at sustainable levels, and achieve optimum yield while maintaining historic fishing opportunities.

Management Uncertainty Buffers

For the new cod stocks, Amendment 25 (Revised) uses the same management uncertainty approach established by Amendment 16. Recreational sub-ACLs have a 7-percent buffer applied; commercial sub-ACLs generally have a 5-percent buffer. Although Amendment 16 set a lower buffer for certain stocks that do not have a state waters component, Amendment 25 (Revised) sets the fishing year 2026 GB cod management uncertainty buffer at 5 percent. The sector management uncertainty buffer can be removed under a 100-percent at-sea monitoring (ASM) coverage target, except for SNE cod. The annual framework (Framework 72) will provide more information regarding the ASM target coverage level and explain how sector allocations could change based on that target and any associated buffer changes.

Sector and Common Pool Allocations

NMFS calculates a sector's allocation for each stock by summing its members'

PSCs for a stock and then multiplying that total percentage by the available commercial sub-ACL for that stock. Table 6 shows the total GOM cod and GB cod PSCs for each sector, by stock, for fishing year 2026 based on 2026 preliminary sector rosters. It also provides the allocations of EGOM, WGOM, GB, and SNE cod that each sector is allocated, in metric tons (mt) and thousands of pounds (lb), for fishing year 2026, under the specifications in this action. The common pool sub-ACLs are also included in table 6 for comparison.

According to the regulations at § 648.87(b)(1)(i)(C), a sector may carry

over up to 10 percent of its initial quota for each stock that is unused at the end of the previous fishing year provided that the total unused sector ACE plus the overall ACL for the following fishing year does not exceed the ABC for the fishing year in which the carryover may be harvested. Given the transition from two to four stocks of Atlantic cod, there is no means of ensuring that unused sector ACE for cod of the old stocks plus the overall ACL for the new stocks would not exceed the ABCs of the new stocks. It would also not be possible to fairly assign unused GOM or GB cod ACE to one of the new stock areas. Consequently, sectors are not allowed to

carry over unused quota of fishing year 2025 GOM and GB cod into fishing year 2026.

This action also implements the trimester TAC distributions for the EGOM cod, WGOM cod, SNE cod, and GB cod common pool sub-ACLs (see table 7) and sets the trimester TACs for each cod stock for fishing years 2026 and 2027 (see table 8), based on 2026 preliminary rosters. Incidental catch TACs are also specified for the four new cod stocks for common pool vessels fishing in the special management programs (*i.e.*, special access programs (SAP) and the Regular B Days-at-Sea (DAS) Program) (tables 9–11).

TABLE 4—CATCH LIMITS FOR THE 2026 FISHING YEAR
[Mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
	A to H	A + B + C	A	B	C	D	E	F	G	H
EGOM Cod	37	37	35	1.4	.....	.....	.....	.....	0	0.4
WGOM Cod	436	408	279	10.6	118	.....	.....	.....	23	5.0
GB Cod	101	93	89	3.2	.....	.....	.....	.....	0	8.5
SNE Cod	34	25	6.5	0.2	18	.....	.....	.....	6.1	3.2

TABLE 5—CATCH LIMITS FOR THE 2027 FISHING YEAR *
[Mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
EGOM Cod	29	28	27	1.0	.....	.....	.....	.....	0.2	0.3
WGOM Cod	555	519	356	14	150	.....	.....	.....	30	6.4
SNE Cod	34	25	6.5	0.2	18	.....	.....	.....	6.1	3.2

* GB cod does not have catch limits set for fishing year 2027, and is therefore not included in table 5.

TABLE 6—CUMULATIVE PSC (PERCENTAGE), ESTIMATED ACE (IN MT) AND ESTIMATED ACE (IN 1,000 LB) FOR EACH SECTOR BY COD STOCK FOR FISHING YEAR 2026 * #

Sector name	MRI count	PSC		ACE in mt					ACE in 1,000 lb				
		GOM cod	GB cod	EGOM cod	WGOM cod	GB cod east	GB cod west	SNE cod	EGOM cod	WGOM cod	GB cod east	GB cod west	SNE cod
Fixed Gear Sector	57	0.620007170	10.25792369	0	11	9	0	1	0	24	21	0	2
Maine Coast Community Sector ...	106	15.94885074	2.01397400	6	33	2	0	0	13	73	4	0	0
Maine Permit Bank	11	1.16763878	0.13459891	0	2	0	0	0	1	5	0	0	0
Mooncusser Sector	50	7.47192323	11.96726174	3	26	11	0	1	6	57	24	0	2
NEFS 2	133	26.02830199	11.00087974	9	62	10	0	1	21	136	22	0	2
NEFS 4	58	11.22369265	8.64395731	4	30	8	0	1	9	66	18	0	1
NEFS 5	14	0.33003363	0.35527445	0	1	0	0	0	0	2	1	0	0
NEFS 6	3	0.16963046	0.53360157	0	1	0	0	0	0	2	1	0	0
NEFS 8	116	6.65297914	34.30912194	2	45	32	0	2	5	99	70	0	5
NEFS 10	20	1.68404030	0.17156341	1	3	0	0	0	1	8	0	0	0
NEFS 11	37	10.57507102	0.39824603	4	21	0	0	0	9	47	1	0	0
NEFS 12	24	3.70670785	0.66798830	1	8	1	0	0	3	17	1	0	0
NEFS 13	49	0.35715437	7.58727804	0	8	7	0	1	0	17	15	0	1
New Hampshire Permit Bank	4	1.15613548	0.00082824	0	2	0	0	0	1	5	0	0	0
Sustainable Harvest Sector 1	46	5.93238203	5.43174188	2	17	5	0	0	5	37	11	0	1
Sustainable Harvest Sector 2	24	2.04310071	1.98369974	1	6	2	0	0	2	13	4	0	0
Sustainable Harvest Sector 3	10	1.20890197	1.05247319	0	3	1	0	0	1	7	2	0	0
Common Pool	489	3.72344849	3.48958783	1	11	3	0	0	3	23	7	0	1
All Sectors	762	96.28	96.51	35	279	89	0	7	77	616	197	0	14

* The data in this table are based on final sector rosters for fishing year 2026.

Numbers are rounded to the nearest thousand pounds and nearest metric ton. In some cases, this table shows an allocation of 0, but that sector may be allocated a small amount of that stock in pounds.

TABLE 7—TRIMESTER TAC DISTRIBUTIONS (PERCENT) FOR ATLANTIC COD STOCKS

Stock	Trimester 1	Trimester 2	Trimester 3
EGOM Cod	80	10	10
WGOM Cod	55	22	23
GB Cod	33	33	34
SNE Cod	36	31	33

TABLE 8—FISHING YEARS 2026–2027 COMMON POOL TRIMESTER TACS
[Mt, live weight] *

Stock	2026			2027		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
EGOM Cod	1.1	0.1	0.1	0.8	0.1	0.1
WGOM Cod	5.8	2.3	2.4	7.4	3.0	3.1
GB Cod	1.1	1.1	1.1	.....	.....	.....
SNE Cod	0.083	0.071	0.076	0.072	0.062	0.066

* The data in this table are based on final sector rosters for fishing year 2026.

TABLE 9—COMMON POOL INCIDENTAL CATCH TACS FOR THE 2026–2027 FISHING YEARS
[Mt, live weight]

Stock	Percentage of common pool sub-ACL	2026	2027
EGOM Cod	1	0.01	0.01
WGOM Cod	1	0.11	0.14
GB Cod	1.68	0.05	.....
SNE Cod	1	0.00	0.00

TABLE 10—PERCENTAGE OF INCIDENTAL CATCH TACS DISTRIBUTED TO EACH SPECIAL MANAGEMENT PROGRAM

Stock	Regular B DAS program (percent)	Eastern U.S./Canada haddock SAP (percent)
EGOM Cod	100	n/a
WGOM Cod	100	n/a
GB Cod	60	40
SNE Cod	100	n/a

TABLE 11—FISHING YEARS 2026–2027 INCIDENTAL CATCH TACS FOR EACH SPECIAL MANAGEMENT PROGRAM
[Mt, live weight]

Stock	Regular B DAS program		Eastern U.S./Canada haddock SAP	
	2026	2027	2026	2027
EGOM Cod	0.01	0.01	n/a	n/a
WGOM Cod	0.11	0.14	n/a	n/a
GB Cod	0.03	0.00	0.02	.....
SNE Cod	0.00	0.00	n/a	n/a

Common Pool Accountability Measures and Other Management Measures

Common Pool Trimester Total Allowable Catch Areas for Cod Stocks

The Trimester TAC accountability measure (AM) requires closure of a stock's Trimester TAC Area for common pool vessels fishing when common pool catch is projected to reach 90 percent of the Trimester TAC for that stock. For the

cod stocks, these closures would apply to common pool vessels fishing with trawl, gillnet, or longline/hook gear. Amendment 25 (Revised) establishes Trimester TAC Areas for each of the four cod stocks (table 12). These areas were developed based on the statistical areas that made up 90 percent of the total commercial catches using the most recent 5-year period (fishing years 2019 through 2023) of data.

TABLE 12—TRIMESTER TAC AREAS FOR ATLANTIC COD STOCKS, BY STATISTICAL AREA

Stock	Trimester TAC area, by statistical area
EGOM Cod	512
WGOM Cod	513, 514, 521
GB Cod	522, 561
SNE Cod	537, 539, 613

Common Pool Baseline Trip Limits for Cod Stocks

Amendment 25 (Revised) sets common pool trip limits for each of the revised cod stocks for DAS Northeast multispecies permits and non-DAS

Northeast multispecies permits (Handgear A, Handgear B, and the Small Vessel Category permit) (table 13). The common pool trip limits set by this action are intended to provide for a limited amount of bycatch of cod that may result from fishing for other stocks

in the common pool. For SNE cod, the common pool sub-ACL is insufficient to support any amount of landings, even as incidental catch, and so Amendment 25 (Revised) prohibits common pool vessels' possession of this stock.

TABLE 13—2026 COMMON POOL DAILY AND TRIP POSSESSION LIMITS

Stock	2026 Common pool daily and trip possession limits			
	DAS permits	Handgear A	Handgear B	Small vessel category
EGOM Cod	25 lb (11 kg) per DAS, up to 50 lb (23 kg) per trip.	25 lb (11 kg) per trip.		
WGOM Cod	50 lb (23 kg) per DAS, up to 100 lb (45 kg) per trip.	50 lb (23 kg) per trip ..	25 lb (11 kg) per trip ..	50 lb (23 kg) per trip.
GB Cod	25 lb (11 kg) per DAS, up to 50 lb (23 kg) per trip.	25 lb (11 kg) per trip.		
SNE Cod	0 lb (0 kg) per trip; possession prohibited.			

Recreational Management Measures

WGOM Cod

This action sets the WGOM cod recreational minimum size of 23 inches (58.4 cm), a recreational possession limit of one fish, and a recreational open season of September 1–October 31 (see table 14).

Although the proposed rule included a May open season for WGOM cod, this opening was developed as a measure for fishing year 2025. In a February 2, 2026 letter to the Regional Administrator, the Council recommended that WGOM cod not have a May open season in fishing year 2026 and shortening the fall season to include only October.

At the time of the January Council meeting, preliminary fishing year 2025 Wave 5 Marine Recreational Information Program (MRIP) data had been made available only recently, which did not provide sufficient time to incorporate the data into the Recreational Demand Model (RDM) that underpins the Decision Support Tool (DST) prior to the Council making its recommendation for recreational measures for WGOM cod and GOM haddock. To account for this updated information for Council consideration, Northeast Fisheries Science Center (Center) staff applied a scaling adjustment of 3.65 times to prior model predicted outcomes for mortality of cod for each set of measures considered by the DST. As such, the

Council was able to consider only a limited suite of potential measures that prevented cod mortality from exceeding both cod and haddock sub-ACLs in at least 50 percent of the model runs.

After the January 2026 Council meeting, Center staff fully incorporated Wave 5 MRIP data into the RDM to re-estimate the potential cod and haddock mortality under the Council-recommended measures and the other sets of measures that were considered. Based on the new RDM results, the impact of the Wave 5 data was less than initially expected under the estimates produced via scaling of previous RDM results. A 2-month fall season (September and October) constrains catch below the WGOM cod recreational sub-ACL in 77 percent of simulations. Center staff also evaluated management options with a May open season for WGOM cod, but none of those resulted in projected cod mortality under the recreational sub-ACL in greater than 50 percent of the simulations run. This information was communicated directly to the Council in an April 1, 2026, letter from the Regional Administrator, including a report of the new RDM results.

GB and EGOM Cod

Amendment 25 (Revised) establishes a temporary regulatory process for the Regional Administrator to set EGOM cod and GB cod recreational measures for fishing year 2026, following

consultation with the Council. Any measures set by the Regional Administrator would remain in place unless changed in a future framework action. As previously recommended by the Council, this action sets EGOM cod and GB cod recreational measures consistent with WGOM cod measures, specifically a minimum size of 23 inches (58.4 cm), with a possession limit of one fish and an open season of September 1–October 31 (see table 14).

SNE Cod

As discussed in Specifications for Fishing Years 2026–2027, Amendment 25 (Revised) includes a very small recreational sub-ACL for SNE cod. While the regulations provide procedures for the Regional Administrator to set the recreational measures for a stock with a sub-ACL, in this case the Council included the recreational measures for SNE cod as part of Amendment 25 (Revised) for fishing year 2026. Amendment 25 (Revised) establishes a zero fish possession limit for SNE cod for all recreational fishermen (charter/party and private anglers) (see table 14). Given the very low ABC and recreational sub-ACL for fishing year 2026, these are the only measures that would be expected to reduce mortality sufficiently. The Regional Administrator will evaluate the SNE cod recreational management measures annually.

TABLE 14—RECREATIONAL COD MANAGEMENT MEASURES

Stock	Possession limit (For hire and private)	Minimum size in inches (cm)	Open season
WGOM Cod	1	23 (58.4)	September 1–October 31.
GB Cod	1	23 (58.4)	September 1–October 31.
EGOM Cod	1	23 (58.4)	September 1–October 31.
SNE Cod	No retention	n/a	CLOSED.

n/a: No minimum size set for SNE cod, because it is zero retention.

Comments on Amendment 25 (Revised) Notice of Availability

NMFS received 261 comments during the comment period for the Amendment 25 (Revised) notice of availability. Comments broadly supported the approval and quick implementation of Amendment 25 (Revised). We did not receive any comments urging the disapproval of the Amendment or opposing Amendment 25 (Revised) overall. NMFS took all comments received on the notice of availability into consideration as part of its approval of the Amendment.

Comments and Responses on Measures in Amendment 25 Proposed Rule

NMFS received 14 comments in response to the Amendment 25 proposed rule. Comments were submitted by Conservation Law Foundation (CLF), Maine Coast Fisherman's Association (MCFA), V Northeast Fishery Sector, Inc. (NEFS 5), NEFS 11, Oceana, U.S. Seafood Policy Council (USSPC), and seven members of the public. A collective comment from 15 fishermen was also submitted. One comment of the 14 was irrelevant to the groundfish fishery and this action and is not addressed further. Amendment 25 (Revised) was approved on April 6, 2026. Statements in these comments that are specific to the agency's approval of Amendment 25 (Revised) rather than the measures proposed for this rulemaking, including questioning the basis of the four cod stocks, are not addressed further in this action. Similarly, comments regarding habitat protections for cod, including protection of cod's food source, are outside the scope of Amendment 25 (Revised) and not addressed further.

Support for Proposed Measures

Comment 1: CLF, MCFA, NEFS 5, NEFS 11, Oceana, and a collective comment from 15 fishermen expressed support for Amendment 25 and the proposed regulations. USSPC supports the science-based efforts under Amendment 25. A member of the public commented that using these updated stocks can allow for more precise

regulation, which could help prevent overfishing and better support long-term population recovery.

Response 1: NMFS agrees and is publishing this final rule to implement these measures to carry out the goals and objectives of Amendment 25.

Timing

Comment 2: NEFS 5 and NEFS 11 emphasized the need for NMFS to implement Amendment 25 (Revised) as soon as possible in the 2026 fishing year. They highlighted the complications sectors will experience tracking and managing quota and catch for both two and four stocks, until Amendment 25 is implemented. CLF and Oceana also stressed the need for timely implementation of the measures in this final rule. Comments from MCFA and a collective comment signed by 15 fishermen both asked that Amendment 25 not be implemented mid-season; however, both comments went on to say that if approved for 2026, Amendment 25 should be implemented as close to May 1 as possible.

Response 2: NMFS is publishing this final rule so that Amendment 25 (Revised) will be in place as soon after May 1, 2026, as possible. To further facilitate the transition to four stocks for Northeast multispecies sectors and their member vessels, NMFS has provided information from the approved Amendment 25 (Revised) to groundfish sector managers to ensure they are aware of and can track quota and catch of the cod stocks.

Comment 3: One commenter stated that a mid-cycle shift would undermine the rule's scientific basis and enforceability of ACLs due to the difficulty a delay presents for catch accounting, and that the change needs to be phased in so that the industry, Council, and NMFS can incorporate updated stock boundaries and age data into the next full specifications cycle.

Response 3: Implementing this Amendment will facilitate accurate catch accounting and data for effective management in the current fishing year and consideration in future assessments and management. Currently, the fishery

is operating under default quotas for cod that are 75 percent of the 2025 quotas for two stocks, and those default quotas expire on October 31, 2026. Once implemented, the fishery will be managed as four stocks using catch advice specifically designed for those stocks. Further delays in implementing these four stock measures could affect the transition and potentially adversely affect catch accounting or information that would be included in future management considerations. NMFS is addressing these concerns by implementing this final rule as soon as possible. Also, consistent with the commenter's suggestion to engage fishing stakeholders and use transitional accounting protocols to ensure better catch accountability, NMFS has provided information to the groundfish sector managers to ensure they are aware of and can track quota and catch of the cod stocks under the old and new management schemes, to avoid the undermining of the goals and objectives of Amendment 25 (Revised). Implementation of this action is based on and consistent with the best scientific information available. The 2024 management track assessments used to develop the specifications for fishing years 2026 and 2027 for the four cod stocks were peer-reviewed, based on the peer-reviewed research track assessment, which all necessarily included new stock boundaries and age data. Attempting to manage the fishery on a two-stock basis for an additional entire fishing year would not fully incorporate this available science.

Comment 4: As part of its comment urging immediate implementation of Amendment 25, CLF referenced its February 17, 2026, petition for rulemaking related to Atlantic cod. Specifically, CLF petitioned the Department of Commerce and NOAA to approve Amendment 25 (Revised), and to immediately notify the Council that it must take action to end overfishing on WGOM and SNE cod stocks and prepare rebuilding plans within 2 years for all four cod stocks or prepare a Secretarial Amendment to take those actions without the Council.

Response 4: Amendment 25 (Revised) was approved on April 6, 2026, incorporating the four cod stocks into the FMP. This final rule implements the measures necessary to carry out the goals and objectives of the Amendment and addresses the issues raised by CLF. The specifications approved in this action have been determined to prevent overfishing. Additionally, with the incorporation of SDCs for the four cod stocks into the FMP through this action, NMFS can now proceed with the next steps in making status determinations and providing guidance to the Council regarding the development of rebuilding plans, as required under the Magnuson-Stevens Act.

Commercial and Recreational Allocations

Comment 5: NEFS 5 and NEFS 11 expressed concern for the methodology used to allocate Atlantic cod to sectors. While the two sectors support using the approach developed for Amendment 25 (Revised) as a temporary measure, NEFS 5 and NEFS 11 strongly urged NMFS and the Council to continue their work on the cod transition plan to develop new allocations that are more in-line with vessel landing history under the four-cod stock structure. MCFA and the collective comment from a group of fishermen also commented on the need to make longer-term allocation decisions through a transparent and deliberate process. One commenter stated that NMFS should provide a sensitivity analysis of the alternative qualifying years for the WGOM cod stock PSCs and apportionment and explain how the 2001–2006 recreational baseline and the separate 2010–2012, 2017, and 2022–2023 commercial baseline satisfy National Standard 2. The commenter asked why the PSC baseline remains appropriate despite changes in effort and gear and stated that NMFS should use a new approach that reflects a different choice of fishing patterns than that chosen by the Council.

Response 5: The bridge approach used in Amendment 25 (Revised) to allocate the four stocks of cod to sectors using the PSCs from two cod stocks was developed as part of Phase 1 of the cod transition plan. The Council is planning Phase 2 of the cod transition plan, recognizing the need for an extended period of time in the next phase. The Council may consider updated information and analyses to potentially establish new PSCs or new allocative measures for each of the four cod stocks to promote conservation, as well as developing other management measures, consistent with the comments submitted for this action and during the

development of Amendment 25 (Revised). NMFS is committed to working with the Council on the continuation of the cod transition plan following the implementation of Amendment 25 (Revised). Input from stakeholders will be critical as part of this process.

The data used for the apportionment decision complies with the requirement to consider the best scientific information available during the development of this action. National Standard 2 requires conservation and management measures to be based on the best scientific information available, not the best data possible. It requires a thorough review of all the relevant information available at the time the decision was made to ensure superior information is not disregarded. There is no indication that better or contrary information was available and not considered. As explained in the EA (Section 7.1.1), Amendment 25 (Revised) is based on the most recent information from the 2024 management track assessments and prior Atlantic cod research track assessment. The mortality limits were based on the scientific advice of the Council's Scientific and Statistical Committee, which recommends ABCs to the Council. Bycatch information was based on the most recent assessments, and economic impacts were analyzed using the Quota Change Model. Consistent with National Standard 2 guidance, the catch data used for the apportionment was chosen and evaluated for its relevance to the goals and objectives of Amendment 25 (Revised) of effectively managing the four cod stocks within the FMPs system of ACLs and AMs to ensure catch remains below desired targets. The Council considered which catch data best reflected fishing under the sector system for the purpose of preserving the status quo to the best extent practicable during the interim period of Phase 1. There were extensive discussions and consideration of the basis of these decisions and the years that would best reflect fishing operations. Numerous apportionment options were considered. The fishing years used were refined from entire series of years of available data since the sector system's implementation for the purpose of best reflecting stock abundance, catch information, and the conservation and management measures that governed the fishery during that period. Those decisions, along with the Council's decisions to allocate between the recreational and commercial fisheries, sought to maintain the fair and equitable balance established in Amendment 16

while promoting conservation of the new cod stocks by preventing overfishing and establishing a basis on which the NMFS may notify the Council of the necessity of new rebuilding plans as appropriate. The fishing years chosen incorporate many factors that reasonably reflect sector operations since sectors were established. The decisions also were well-informed by economic analyses that the Council considered to provide for the sustained participation of fishing communities and minimize adverse economic impacts on such communities to the extent practicable, consistent with National Standard 8.

Comment 6: One commenter requested additional information regarding the selection of the management uncertainty buffers, asking how the buffers would be adjusted if recreational estimates are revised mid-season. The commenter questioned why a 100-percent at-sea monitoring coverage target is not sufficient for the elimination of the management uncertainty buffer for SNE cod. CLF noted that a prolonged delay of implementation might warrant more precautionary buffers to ensure conservation objectives are met, but points to no information supporting this concern.

Response 6: Management uncertainty buffers for cod are set consistent with the majority of other stocks managed under the FMP, as previously established in Amendment 16, to account for the uncertainties associated with discard estimation and quota monitoring, with the exception of GB cod. Stocks in the FMP with no inshore component receive a 3-percent buffer, but in the case of GB cod, the Council chose a higher buffer of 5 percent to reflect additional uncertainties of managing the U.S./Canada shared resource. The Council may revisit these buffers in future management actions. For SNE cod, the Council recommended not removing the buffer for sectors, even under a 100-percent ASM coverage target, because of the overlap of the stock area with the area west of 71°30' W longitude that is excluded from sector ASM coverage. There is no information showing that implementation of this action as soon as practicable during this season will undermine the effectiveness of these buffers.

Recreational estimation methods are not changed mid-season. Previously, when there have been changes to the recreational estimation process, they have been incorporated into catch accounting only after being incorporated into the specification setting process.

Economic Impacts

Comment 7: USSPC commented that the transition from two to four stocks of cod should be implemented in a way that safeguards the strength, stability, and competitiveness of the American seafood industry. It expressed concern that the proposed measures would have economic risks to seafood industries. It commented that NOAA should implement a phased transition to the four-stock framework, provide economic mitigation or support for impacted businesses, regularly reassess commercial and recreational allocation splits, simplify compliance, and incorporate U.S. seafood supply chain resilience into regulatory impact analyses.

Response 7: Amendment 25 (Revised) represents the transition from two to four stocks of cod under Phase 1 of the Cod Stock Transition Plan. Appendix III of the Amendment 25 (Revised) EA provides additional details on the quota setting method that would allow for quotas to be set, monitored, and managed for four areas that match the four new stock units that were used in assessments, while not revising the existing PSCs for the previous two units of cod. As part of Phase 2, the Council may develop potential new reallocations between the commercial and recreational sectors, and within the commercial sector, but that is not part of the measures implemented in this rule.

This action includes an evaluation of alternative management approaches relative to economic and social impacts, which includes the impacts to affected communities. Specifically, Section 6.5 of the Amendment 25 (Revised) EA and the Regulatory Impact Review in Section 7.11.1 of the Amendment 25 (Revised) EA describe the economic impacts of the action and its alternatives, and Section 6.6 of the EA describes the social impacts of the action. NMFS evaluated the conservation and management measures considered, selected, and implemented in this action to ensure they meet all of the requirements of the Magnuson-Stevens Act, including minimizing costs to the extent practicable while seeking the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities and taking into account the protection of marine ecosystems.

Comment 8: One commenter expressed concern that the analysis accompanying this action does not adequately account for distributional shifts in fishing effort. The commenter states that without analyzing where

fishing effort will shift, NMFS cannot determine if fishing mortality on Atlantic cod stocks will decrease. The commenter additionally states that the analysis should include scenario results showing likely effort redistribution under alternative allocation formulas and the expected biological consequences of those shifts, stating that this analysis is a legal requirement to ensure no coastal community is unfairly burdened. Another commenter expressed concern regarding the economic impact for fishermen who may face stricter catch limits or reduced access to certain fishing areas.

Response 8: Amendment 25 (Revised) establishes four stocks of Atlantic cod and establishes specifications for these stocks consistent with the 2023 Research Track Assessment for Atlantic cod and subsequent management track assessments completed in 2024. Based on the assessments, the specifications limit fishing mortality within each stock area sufficiently to facilitate achievement of optimum yield and prevent overfishing of the newly established stocks of Atlantic cod, as required by National Standard 1. Consistent with National Standard 3, the selected management areas balance known and reasonably foreseeable biological, geographic, economic, technical, social, and ecological concerns to best achieve the FMP's goals and objectives. The FMP and its conservation and management measures are subject to continual Council and NMFS oversight and evaluation with the goal of achieving optimum yield on a continuing basis, including evaluating fishing activity that occurs after implementation of this action.

The stock area and apportionment measures approved in this action reasonably promote conservation, do not discriminate between residents of different states, and are fair and equitable, consistent with National Standard 4. The measures have different impacts on different participants because of the differences in the distribution of fish and varying stock levels in the complex. As explained in Section 7.1.1 of the Amendment 25 (Revised) EA, some of these impacts may be localized, but these distributive impacts are difficult to avoid given the requirement to rebuild overfished stocks.

National Standard 8 requires that measures take into account the importance of fishing resources to communities by considering economic and social data. Section 6.5 of the Amendment 25 (Revised) EA and the Regulatory Impact Review in Section 7.11.1 of the Amendment 25 (Revised)

EA describe the economic impacts of the action and its alternatives, and Section 6.6 of the EA describes the social impacts of the action. As noted in the EA, there could be behavioral fishing changes due to the transition from two to four cod stocks. For example, few trips occurred in the EGOM cod stock area in fishing year 2023, but the EA noted that this could change given the expectation that the WGOM cod quota will be constraining. However, the quota change model is largely unable to predict large shifts in effort, because it is based on a data period when there were only two stocks of cod and the model implicitly assumes that fishing practices during the data period are representative of future effort.

Commercial and Recreational Measures

Comment 9: One recreational fisherman provided input on possible recreational measures such as maximum size limits, and suggested setting "seasonal catch totals" as an alternative to "minimalized numerical or weight possession limits," which they stated will economically affect offshore charters. One member of the public expressed concern that recreational fishing restrictions like limited seasons and possession limits have the possibility to reduce community engagement and economic stimulation in that sector.

Response 9: The recreational measures implemented in this final rule were developed in consultation with the Council and its recreational advisory panel and are intended to allow the recreational fishery to achieve but not exceed the recreational sub-ACLs for the year. Maximum size limits or slot limits have been previously implemented but were not recommended for any of the cod stocks for fishing year 2026. The commenter referenced setting seasonal catch totals but did not provide more context. Larger scale changes (*i.e.*, beyond adjustments to season, minimum size, and bag limit) to recreational management of stocks in the FMP could be considered through the Council process but are out of scope for Amendment 25 (Revised).

Comment 10: One fisherman recommended small possession limits for both recreational and commercial sectors for cod off Montauk NY.

Response 10: The zero-fish possession limit for recreational fishermen and common pool vessels is based on the very low ABC, recreational sub-ACL, and common pool sub-ACL. Because of the other effort controls on sector vessels, zero possession was not determined to be necessary at this time, although it is an option that the Council

has considered and could pursue in the future. Recreational and common pool possession limits are considered annually (and common pool possession limits can be changed in-season) by the Regional Administrator, and the limits for SNE cod could be increased if it is determined to be possible.

NEPA Analysis

Comment 11: One commenter stated that the EA should include more ecosystem factors to ensure the rebuilding targets for cod remain realistic in a changing climate and should also include cumulative effects of other rulemakings.

Response 11: As described in the Amendment 25 (Revised) EA, the status determination criteria, including the biomass target, were developed as part of the Atlantic Cod Research Track Assessment completed in 2023, and the management track assessments completed in 2024. “Ecosystem and climate influences” was the first Term of Reference for the research track assessment, and the 2023 peer review found that this had been met for all four stocks of cod. Future management track assessments will continue to recalculate the numeric estimates for each of the four cod stocks’ SDCs to reflect any changes in the understanding of the stocks’ statuses. Cumulative effects of other actions are considered as part of the Amendment 25 (Revised) EA, Section 6.7.

Changes From the Proposed Rule

As described more fully in Recreational Management Measures, this final rule approves a recreational open season for WGOM cod for September and October only and does not include the May season that was originally proposed.

Sector and common pool allocations have been updated to reflect final sector rosters for fishing year 2026, rather than the 2025 rosters used in the proposed rule.

Classification

NMFS is issuing this rule pursuant to sections 304(b)(3) and 305(d) of the Magnuson-Stevens Act, which provide specific authority for implementing this action. Pursuant to section 305(d), this action implements recreational measures for the EGOM, WGOM, and GB cod stocks, in accordance with § 648.89(f)(3), and is necessary to carry out the Northeast Multispecies FMP. The NMFS Assistant Administrator has determined that this final rule is consistent with Amendment 25 (Revised), the Northeast Multispecies

FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866. This final rule is not an E.O. 14192 regulatory action because this rule is not significant under E.O. 12866.

The Assistant Administrator for Fisheries finds that this action is excepted from the 30-day delayed effectiveness of this action pursuant to 5 U.S.C. 553(d)(1) because it relieves restrictions and is otherwise justified by good cause under 5 U.S.C. 553(d)(3).

These measures should be implemented upon publication because they relieve the restrictions of the lower default catch limits that are in place until superseded by this action. Further delay in implementation of these measures would limit economic opportunities for the fishery to fully access groundfish quota within the 2026 fishing year. Until the rule is in effect, fishermen are restricted in their opportunity to fish, because they are operating under default quotas that are based on 75 percent of the 2025 specifications set for the two cod stocks. The default allocations are overall lower than the specifications for cod implemented through this final rule. Waiving the 30-day delay for this rule would immediately relieve the 75-percent catch limit restriction. Fishermen are currently fishing under more-restrictive default catch limits and do not need time to prepare for the effective date of this action. In fact, fishermen who are subject to this action expect and need timely implementation to avoid adverse economic impacts. While NMFS has worked closely with sector managers to use the online quota tracking systems available to allow managers to track quota under both the 2-stock and 4-stock regimes, immediate implementation will reduce confusion and the burden for sector managers. Numerous comments received on the proposed rule, from both industry groups and non-governmental organizations, stressed the need for speedy implementation. In sum, a delay in implementation of this action would greatly diminish the benefits of these specifications and other approved management measures.

Further, there is good cause to waive the 30-day delay from publication before the rule comes into effect. Multiple commenters on the proposed rule noted the need to implement this action as soon as possible to capture fully the conservation and economic benefits of Amendment 25 (Revised) and avoid adverse economic impacts. This action relies on the best available

science to define four Atlantic cod stocks under the FMP and set fishing year 2026 catch limits for those stocks. Implementing this action as soon as possible will facilitate effective management of these stocks because it puts into place catch limits specifically tailored to the four stocks that are designed to prevent overfishing. Further, immediate implementation will relieve a recordkeeping burden on sectors and facilitate clear and more efficient catch accountability because it will shorten the need to convert catch and leasing activity from two stocks into four stocks. For these reasons there is good cause to implement these measures immediately upon publication.

NMFS has determined that this action would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes; therefore, consultation with Tribal officials under E.O. 13175 is not required, and the requirements of section (5)(b) and (c) of E.O. 13175 also do not apply. A Tribal summary impact statement under section (5)(b)(2)(B) and (c)(2) of E.O. 13175 is not required and has not been prepared.

Final Regulatory Flexibility Analysis

Section 604 of the Regulatory Flexibility Act (RFA) requires Federal agencies to prepare a Final Regulatory Flexibility Analysis (FRFA) for each final rule that describes the economic impact of this action on small entities (5 U.S.C. 604). The FRFA includes a summary of significant issues raised by public comments, the analyses contained in Amendment 25 (Revised) and its accompanying Environmental Assessment, Regulatory Impact Review, an Initial Regulatory Flexibility Analysis (IRFA), the IRFA summary in the proposed rule, as well as the summary provided below. A statement of the necessity for and the objectives of this action are contained in Amendment 25 (Revised) and in the preamble to this final rule and are not repeated here.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule

or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the Greater Atlantic Regional Fisheries Office, and the guide (i.e., permit holder letter) will be sent to all holders of permits for the fishery. The guide and this final rule will be available upon request.

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

NMFS received one comment regarding the economic analysis and specifically referenced the regulatory impact review. NMFS's assessment of the comment and the economic analysis is provided in the Comments and Responses section of this final rule. NMFS is not making any changes to the final rule based on the comment. The comment provided no specifics for alternative approaches or analyses, it only requested additional analysis.

Description and Estimate of the Number of Small Entities to Which This Final Rule Would Apply

This final rule applies to the commercial and recreational fisheries for groundfish, as well as the Atlantic sea scallop, small-mesh multispecies, Atlantic herring, and large-mesh non-groundfish fisheries that overlap with the groundfish fishery. Individually permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs, beyond those directly affected by this action. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of the RFA analysis, the ownership entities, not the individual vessels, are considered to be the regulated entities.

As of June 1, 2024, NMFS issued 669 commercial limited-access groundfish permits associated with vessels (including those in confirmation of permit history), 719 party/charter groundfish permits, 696 limited access and general category Atlantic sea scallop permits, 761 small-mesh multispecies permits, 71 Atlantic herring permits, and 743 large-mesh non-groundfish permits (i.e., limited access summer flounder and scup permits). Therefore, this action

potentially regulates to 3,659 permits. When accounting for overlaps between fisheries, this number reduces to 2,144 permitted vessels. Each vessel may be individually owned or part of a larger corporate ownership structure and, for RFA purposes, it is the ownership entity that is ultimately regulated by this action. Ownership entities are identified on June 1st of each year based on the list of all permit numbers, for the most recent complete calendar year, that have applied for any type of Greater Atlantic Region Federal fishing permit. The current ownership data set is based on calendar year 2023 permits and contains gross sales associated with those permits for calendar years 2019 through 2023.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. The determination as to whether the entity is large or small is based on the average annual revenue for the 5 years from 2019 through 2023. The Small Business Administration has established size standards for all other major industry sectors in the U.S., including for-hire fishing (NAICS code 487210). These entities are classified as small businesses if combined annual receipts are not more than \$8.0 million for all of an entity's affiliated operations. As with commercial fishing businesses, the annual average of the 3 most recent years (2019–2023) is utilized in determining annual receipts for businesses primarily engaged in for-hire fishing.

Based on the ownership data, 1,648 distinct business entities hold at least one permit that this action potentially regulates. All 1,648 business entities identified could be directly regulated by this action. Of these 1,648 entities, 891 are commercial fishing entities, 326 are for-hire entities, and 431 did not have revenues (i.e., were inactive in 2023). Of the 891 commercial fishing entities, 881 are categorized as small entities and 10 are categorized as large entities, per the NMFS guidelines. Furthermore, 412 of these commercial fishing entities held limited access groundfish permits, with 408 of these entities being classified as small businesses and 4 of these entities being classified as large businesses. All

326 for-hire entities are categorized as small businesses.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of This Final Rule

The final action contains no information requirements under the Paperwork Reduction Act of 1995 (PRA).

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of the Applicable Statutes

The economic impacts of each measure are discussed in more detail in sections 6.5 and 7.11 of the draft Amendment 25 (Revised) EA (see **ADDRESSES**) and in the IRFA and are not repeated here. These considerations include the SDCs, the updated groundfish specifications, and other measures in this rule, and the No Action alternative. An alternative approach to dividing the northern and southern portions of the WGOM cod stock area for allocating to the commercial fishery was considered by the Council but was moved to “considered but rejected.” This action is predicted to generate \$34.7 million in gross revenues for the sector portion of the commercial groundfish trips. Under the No Action alternative, sector revenue could not be estimated due to the lack of specifications for the new Atlantic cod stocks for the upcoming fishing year. Small entities engaged in the commercial groundfish fishery, including both the sector component and the common pool component, will be positively impacted by this action relative to No Action. However, this action is predicted to result in \$7.0 million less than the amount of gross revenues generated in fishing year 2023. Small entities engaged in common pool groundfish fishing are expected to be positively impacted by the action, relative to the No Action alternative.

The recreational sub-ACLs for WGOM cod and SNE cod would be defined under this action, and because these sub-ACLs would not be defined under the No Action, this action is expected to positively impact the recreational fishery relative to the No Action. However, relative to fishing year 2023, the zero-possession recreational limit for SNE cod is expected to negatively impact the recreational fishery. The recreational measures for WGOM cod are expected to have a neutral effect on small entities, because they provide a similar opportunity to harvest WGOM cod as the previous recreational measures for GOM cod.

NMFS considered the Council’s range of alternatives for each of the management measures included in this action that were included in the proposed rule, as well as the No Action alternatives for each measure. NMFS could have selected any combination of alternatives or the No Action alternative for the range of measures. In this final rule, NMFS is implementing all the alternatives to the No Action alternatives for each management measure. In the short term, the zero-retention recreational possession limit and low cod specifications overall (but higher relative to no action) are expected to have negative economic impacts relative to other alternatives not implemented (status quo and no action alternatives). However, maintaining status quo or no action specifications and allowing more recreational possession in southern New England would be inconsistent with the four-stock structure of the FMP and would undermine long term sustainability.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping, and reporting requirements.

Dated: June 25, 2026.
Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons stated in the preamble, NMFS amends 50 CFR part 648 as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 648.2, add the definitions for “WGOM cod northern portion” and “WGOM cod southern portion” in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

WGOM cod northern portion means the geographical area of the WGOM cod stock area, as defined in § 648.88(a)(2), that overlaps the GOM Stock Area 1, as described in § 648.10(k)(3)(i).

WGOM cod southern portion means the geographical area of the WGOM cod stock area, as defined in § 648.88(a)(2), that overlaps the Inshore GB Stock Area

2 and SNE/MA Stock Area 4, as described in § 648.10(k)(3)(ii) and (iv).

■ 3. Amend § 648.82 as follows:

■ a. Revise paragraphs (n)(2)(i)(A), (n)(2)(ii) introductory text, and (n)(2)(ii)(A) and (B);

■ b. Redesignate paragraphs (n)(2)(ii)(C) through (N) as paragraphs (n)(2)(ii)(E) through (P); and

■ c. Add new paragraphs (n)(2)(ii)(C) and (D).

The revisions and additions read as follows:

§ 648.82 Effort-control program for NE multispecies vessels.

* * * * *

(n) * * *

(2) * * *

(i) * * *

(A) *Trimester TAC distribution.* With the exception of SNE/MA winter flounder, any sub-ACLs specified for common pool vessels pursuant to § 648.90(a)(4) shall be apportioned into 4-month trimesters, beginning at the start of the fishing year (*i.e.*, Trimester 1: May 1–August 31; Trimester 2: September 1–December 31; Trimester 3: January 1–April 30), as follows:

TABLE 1 TO PARAGRAPH (n)(2)(i)(A)—PORTION OF COMMON POOL SUB-ACLs APPORTIONED TO EACH STOCK FOR EACH TRIMESTER

Stock	Trimester 1 (percent)	Trimester 2 (percent)	Trimester 3 (percent)
EGOM cod	80	10	10
WGOM cod	55	22	23
GB cod	33	33	34
SNE Cod	36	31	33
GB haddock	27	33	40
GOM haddock	27	26	47
GB yellowtail flounder	19	30	51
SNE/MA yellowtail flounder	21	28	51
CC/GOM yellowtail flounder	57	26	17
American plaice	74	8	18
Witch flounder	55	20	25
GB winter flounder	8	24	68
GOM winter flounder	37	38	25
Redfish	25	31	44
White hake	38	31	31
Pollock	28	35	37

* * * * *

(ii) *Stock area closures.* Unless otherwise specified in this paragraph (n)(2)(ii), if the Regional Administrator projects that 90 percent of the trimester TACs specified in paragraph (n)(2)(i) of this section will be caught based upon available information, the Regional Administrator shall close the area where 90 percent of the catch for each such stock occurred to all common pool vessels on a NE multispecies DAS using gear capable of catching such stocks for the remainder of that trimester, as

specified in paragraphs (n)(2)(ii)(A) through (P) of this section, in a manner consistent with the Administrative Procedure Act. For example, if the Regional Administrator projects that 90 percent of the CC/GOM yellowtail flounder Trimester 1 TAC will be caught, common pool vessels using trawl and gillnet gear shall be prohibited from fishing in the CC/GOM Yellowtail Flounder Closure Area specified in paragraph (n)(2)(ii)(I) of this section until the beginning of Trimester 2 on September 1 of that fishing year.

Based upon all available information, the Regional Administrator is authorized to expand or narrow the areas closed under this paragraph (n)(2)(ii) in a manner consistent with the Administrative Procedure Act. If it is not possible to identify an area where only 90 percent of the catch occurred, the Regional Administrator shall close the smallest area possible where greater than 90 percent of the catch occurred. Common pool vessels holding either a Handgear A or B permit and fishing with handgear or tub trawls are exempt

from stock area closures for white hake. The Regional Administrator may exempt Handgear A and B permitted vessels from stock area closures for other stocks pursuant to this paragraph (n)(2)(ii) if it is determined that catches of the respective species or stock by these vessels are less than 1 percent of the common pool catch of that species or stock. The Regional Administrator shall make such determination prior to the start of the fishing year through a notice published in the **Federal Register**, consistent with the Administrative Procedure Act, and any such determination shall remain in effect until modified.

(A) *EGOM Cod Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the EGOM Cod Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by the coastline of the United States and by straight lines connecting the following points in the order stated:

TABLE 2 TO PARAGRAPH (n)(2)(ii)(A)—
EGOM COD TRIMESTER TAC AREA

Point	N latitude	W longitude
EGOM1	44°23'58"	67°57'35"
EGOM2	44°10'	67°50'
EGOM3	44°00'	67°50'
EGOM4	44°00'	67°40'
EGOM5	43°20'	67°40'
EGOM6	43°20'	69°00'
EGOM7	43°40'	69°00'
EGOM8	43°40'	69°20'

(B) *WGOM Cod Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the WGOM Cod Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by the coastline of the United States and by the straight lines connecting the following points in the order stated:

TABLE 3 TO PARAGRAPH (n)(2)(ii)(B)—
WGOM COD TRIMESTER TAC AREA

Point	N latitude	W longitude
WGOM1	(1)	69°20'
WGOM2	43°40'	69°20'
WGOM3	43°40'	69°00'
WGOM4	43°10'	69°00'
WGOM5	43°10'	69°10'
WGOM6	43°00'	69°10'
WGOM7	43°00'	69°20'
WGOM8	42°50'	69°20'
WGOM9	42°50'	69°40'
WGOM10	42°20'	69°40'
WGOM11	42°20'	68°50'

TABLE 3 TO PARAGRAPH (n)(2)(ii)(B)—
WGOM COD TRIMESTER TAC
AREA—Continued

Point	N latitude	W longitude
WGOM12	41°00'	68°50'
WGOM13	41°00'	69°30'
WGOM14	41°10'	69°30'
WGOM15	41°10'	69°50'
WGOM16	41°20'	69°50'
WGOM17	(2)	70°00'
WGOM18	(3)	70°00'

¹ Intersection of south-facing ME coastline and 69°20' W Long.

² Northeast-facing coastline of Nantucket, MA.

³ South-facing coastline of Cape Cod, MA.

(C) *GB Cod Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GB Cod Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by straight lines connecting the following points in the order stated:

TABLE 4 TO PARAGRAPH (n)(2)(ii)(C)—
GB COD TRIMESTER TAC AREA

Point	N latitude	W longitude
GB1	42°20'	68°50'
GB2	42°20'	(1)
GB3	41°50'	(1)
GB4	41°50'	67°40'
GB5	41°20'	67°40'
GB6	41°20'	68°10'
GB7	41°10'	68°10'
GB8	41°10'	68°20'
GB9	41°00'	68°20'
GB10	41°00'	68°50'
GB1	42°20'	68°50'

¹ U.S./Canada maritime boundary.

(D) *SNE Cod Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the SNE Cod Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by the coastline of the United States and by straight lines connecting the following points in the order stated and bounded by the coastline:

TABLE 5 TO PARAGRAPH (n)(2)(ii)(D)—
SNE COD TRIMESTER TAC AREA

Point	N latitude	W longitude
SNE1	(1)	71°10'
SNE2	41°20'	71°10'
SNE3	41°20'	(2)
SNE4	(3)	70°00'
SNE5	39°50'	70°00'
SNE6	39°50'	71°40'

TABLE 5 TO PARAGRAPH (n)(2)(ii)(D)—
SNE COD TRIMESTER TAC AREA—
Continued

Point	N latitude	W longitude
SNE7	40°00'	71°40'
SNE8	40°00'	73°00'
SNE9	(4)	73°00'
SNE10	41°00'	(5)
SNE11	41°00'	71°40'
SNE12	(1)	71°40'

¹ South-facing coastline of Rhode Island.

² West-facing coastline of Martha's Vineyard, MA.

³ South-facing coastline of Nantucket, MA.

⁴ South-facing coastline of Long Island, NY.

⁵ Southeast-facing coastline of Long Island, NY.

* * * * *

■ 4. Amend § 648.85 by revising paragraph (b)(5) introductory text and paragraph (b)(6)(iv)(D) to read as follows:

§ 648.85 Special management programs.

* * * * *

(b) * * *

(5) *Incidental Catch TACs.* Unless otherwise specified in this paragraph (b)(5), Incidental Catch TACs shall be based upon the portion of the ACL for a stock specified for common pool vessels pursuant to § 648.90(a)(4), and allocated as described in this paragraph (b)(5), for each of the following stocks: WGOM cod, EGOM cod, GB cod, SNE cod, GB yellowtail flounder, CC/GOM yellowtail flounder, American plaice, SNE/MA winter flounder, and witch flounder. Because GB yellowtail flounder and GB cod are transboundary stocks, the incidental catch TACs for these stocks shall be based upon the common pool portion of the ACL available to U.S. vessels. NMFS shall send letters to limited access NE multispecies permit holders notifying them of such TACs.

* * * * *

(6) * * *

(iv) * * *

(D) *Landing limits.* Unless otherwise specified in this paragraph (b)(6)(iv)(D), or restricted pursuant to § 648.86, a NE multispecies vessel fishing in the Regular B DAS Program described in this paragraph (b)(6), and fishing under a Regular B DAS, may not land more than 100 lb (45.5 kg) per DAS, or any part of a DAS, up to a maximum of 1,000 lb (454 kg) per trip, of any of the following species/stocks from the areas specified in § 648.88: Cod (EGOM, WGOM, GB, and SNE), American plaice, witch flounder, SNE/MA winter flounder, and GB yellowtail flounder; and may not land more than 25 lb (11.3 kg) per DAS, or any part of a DAS, up

to a maximum of 250 lb (113 kg) per trip of CC/GOM yellowtail flounder. In addition, trawl vessels, which are required to fish with a haddock separator trawl, as specified in paragraph (a)(3)(iii)(A) of this section, or a Ruhle trawl, as specified in paragraph (b)(6)(iv)(J) of this section, and other

gear that may be required in order to reduce catches of stocks of concern as described in paragraph (b)(6)(iv)(J) of this section, are restricted to the trip limits specified in paragraph (e) of this section.

* * * * *

■ 5. Amend § 648.86 by revising Table 1 to Paragraph (a)(1) to read as follows:

§ 648.86 NE Multispecies commercial possession restrictions.

* * * * *

(a) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (a)(1)

Stock ¹	DAS limit ²	Trip limit ²
EGOM cod ³	25 lb per DAS	50 lb per trip.
WGOM cod ³	50 lb per DAS	100 lb per trip.
GB cod ³	25 lb per DAS	50 lb per trip.
SNE cod ³	0 lb per DAS	0 lb per trip.
GOM haddock	1,000 lb (453 kg) per DAS	2,000 lb (907 kg) per trip.
GB haddock	1,000 lb (453 kg) per DAS	2,000 lb (907 kg) per trip.
CC/GOM yellowtail flounder ⁴	1,500 lb (680 kg) per DAS	3,000 lb (1,360 kg) per trip.
GB yellowtail flounder ⁴	No daily limit	100 lb (45.4 kg) per trip.
SNE yellowtail flounder ⁴	200 lb (90.7 kg) per DAS	400 lb (181 kg) per trip.
American plaice	3,000 lb (1,360 kg) per DAS	6,000 lb (2,721 kg) per trip.
Witch flounder	No daily limit	1,500 lb (680 kg) per trip.
GB winter flounder	No daily limit	500 lb (227 kg) trip.
GOM winter flounder	No daily limit	2,000 lb (907 kg) per trip.
SNE/MA winter flounder	2,000 lb (907 kg) per DAS	4,000 lb (1,814 kg) per trip.
Redfish	Unlimited	Unlimited.
White hake	No daily limit	1,000 lb (453 kg) per trip.
Pollock	Unlimited	Unlimited.

¹ The stock areas that apply to these possession limits are specified in § 648.88.

² The possession limits in Table 1 to Paragraph (a)(1) may be adjusted in-season by the Regional Administrator, as specified under at § 648.86(a)(5). Current possession limits are available at: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/commercial-fishing/northeast-multispecies-common-pool-fishery>.

³ Additional restrictions for cod stocks are specified at § 648.86(a)(6)(iii).

⁴ Additional restrictions for yellowtail flounder stocks are specified at § 648.86(a)(6)(iv).

* * * * *

■ 6. Amend § 648.87 as follows:

- a. Revise paragraph (b)(1)(i)(C)(1) introductory text;
- b. Add paragraph (b)(1)(i)(C)(1)(iii);
- c. Revise paragraph (b)(1)(i)(E) introductory text and (b)(1)(i)(E)(2) paragraph heading.

The revisions and addition read as follows:

§ 648.87 Sector allocation.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(C) * * *

(1) *Maximum carryover.* With the exception of GB yellowtail flounder, and unless otherwise specified in (b)(1)(i)(C)(1)(iii) of this section a sector may carryover an amount of ACE equal to 10 percent of its original ACE for each stock that is unused at the end of one fishing year into the following fishing year, provided that the total unused sector ACE plus the overall ACL for the following fishing year does not exceed the ABC for the fishing year in which the carryover may be harvested. If this total exceeds the ABC, NMFS shall adjust the maximum amount of unused ACE that a sector may carryover (down from 10 percent) to an amount equal to

the ABC of the following fishing year.

Any adjustments made would be applied to each sector based on its total unused ACE and proportional to the cumulative PSCs of vessels/permits participating in the sector for the particular fishing year, as described in paragraph (b)(1)(i)(E) of this section.

* * * * *

(iii) *Atlantic cod stocks carryover for fishing year 2026.* Unused fishing year 2025 ACE for the Atlantic cod stocks will not carryover to a sector's fishing year 2026 ACE for the Atlantic cod stocks. For the 2027 fishing year and onward, carryover for the Atlantic cod stocks will return to the processes described in paragraphs (b)(1)(i)(C)(1) and (2) of this section.

* * * * *

(E) *Potential sector contribution (PSC).* For the purposes of allocating a share of the available ACL for each NE multispecies stock to approved sectors pursuant to § 648.90(a)(4), the landings history of all limited access NE multispecies permits shall be evaluated to determine each permit's share of the overall landings for each NE multispecies stock as specified in paragraphs (b)(1)(i)(E)(1) and (2) of this section. For the purposes of allocating a share of the available ACL for the four

Atlantic cod stocks (*i.e.*, EGOM, WGOM, GB, and SNE cod) to approved sectors pursuant to § 648.90(a)(4), the PSCs will continue to be calculated for GOM cod and GB cod according to the method specified in Amendment 16, in accordance with paragraphs (b)(1)(i)(E)(1) and (2) of this section. When calculating an individual permit's share of the overall landings for a particular regulated species or ocean pout stock, landed weight shall be converted to live weight to maintain consistency with the way ACLs are calculated pursuant to § 648.90(a)(4) and the way ACEs are allocated to sectors pursuant to this paragraph (b)(1)(i). This calculation shall be performed on July 1 of each year, unless another date is specified by the Regional Administrator, to redistribute the landings history associated with permits that have been voluntarily relinquished or otherwise canceled among all remaining valid limited access NE multispecies permits as of that date during the following fishing year. The PSC calculated pursuant to this paragraph (b)(1)(i)(E) shall remain with the permit indefinitely, but may be permanently reduced or eliminated due

to a permit sanction or other enforcement action.

* * * * *

(2) *Calculation of PSC for GB cod.* * * *

* * * * *

■ 7. Amend § 648.88 by revising paragraphs (a)(1) and (2) and adding paragraphs (a)(3) and (4) to read as follows:

§ 648.88 Multispecies stock area definitions.

(a) * * *

(1) *EGOM cod stock area.* The EGOM cod stock is the area defined by straight lines connecting the following points in the order stated and bounded by the coastline of the United States:

TABLE 1 TO PARAGRAPH (a)(1)—EGOM COD STOCK AREA

Point	N latitude	W longitude
EGOM1	(1)	69°20'
EGOM2	(2)	67°00'
EGOM3	(2)	67°40'
EGOM4	43°20'	67°40'
EGOM5	43°20'	69°00'
EGOM6	43°40'	69°00'
EGOM7	43°40'	69°20'

¹ Intersection of south-facing ME coastline and 69°20' W long.

² U.S./Canada maritime boundary.

(2) *WGOM cod stock area.* The WGOM cod stock is the area defined by straight lines connecting the following points in the order stated and bounded by the coastline of the United States:

TABLE 2 TO PARAGRAPH (a)(2)—WGOM COD STOCK AREA

Point	N latitude	W longitude
WGOM1	(1)	69°20'
WGOM2	43°40'	69°20'
WGOM3	43°40'	69°00'
WGOM4	43°20'	69°00'
WGOM5	43°20'	67°40'
WGOM6	(2)	67°40'
WGOM7	(3)	67°40'
WGOM8	42°20'	67°40'
WGOM9	42°20'	68°50'
WGOM10	39°50'	68°50'
WGOM11	39°50'	69°00'
WGOM12	39°00'	69°00'
WGOM13	39°00'	70°00'
WGOM14	(4)	70°00'

¹ Intersection of south-facing ME coastline and 69°20' W long.

² U.S./Canada maritime boundary (northern intersection with 67°40' W long).

³ U.S./Canada maritime boundary (southern intersection with 67°40' W long).

⁴ Intersection of south-facing coastline of Cape Cod and 70°00' W long.

(3) *GB cod stock area.* The GB cod stock area is the area defined by straight lines connecting the following points in the order stated:

TABLE 3 TO PARAGRAPH (a)(3)—GB COD STOCK AREA

Point	N latitude	W longitude
GB1	42°20'	68°50'
GB2	42°20'	67°40'
GB3	(1)	67°40'
GB4	39°00'	(2)
GB5	39°00'	69°00'
GB6	39°50'	69°00'
GB7	39°50'	68°50'
GB1	42°20'	68°50'

¹ U.S./Canada maritime boundary (northern intersection with 67°40' W long).

TABLE 1 TO PARAGRAPH (b)(1)

Species	Charter/party minimum size		Private minimum size		Maximum size	
	inches	cm	inches	cm	inches	cm
Cod						
EGOM cod stock area ¹	23	58.4	23	58.4	N/A	N/A
WGOM cod stock area ¹	23	58.4	23	58.4	N/A	N/A
GB cod stock area ¹	23	58.4	23	58.4	N/A	N/A
SNE cod stock area ¹	N/A	N/A	N/A	N/A	N/A	N/A
Haddock						
Inside GOM Regulated Mesh Area ²	17	43.2	17	43.2	N/A	N/A
Outside GOM Regulated Mesh Area ²	18	45.7	18	45.7	N/A	N/A
Pollock	19	48.3	19	48.3	N/A	N/A
Witch Flounder (gray sole)	14	35.6	14	35.6	N/A	N/A
Yellowtail Flounder	13	33.0	13	33.0	N/A	N/A
American Plaice (dab)	14	35.6	14	35.6	N/A	N/A
Atlantic Halibut	41	104.1	41	104.1	N/A	N/A
Winter Flounder (black back)	12	30.5	12	30.5	N/A	N/A
Redfish	9	22.9	9	22.9	N/A	N/A

¹ Cod stock areas specified in § 648.88

² GOM Regulated Mesh Area specified in § 648.80(a).

² U.S./Canada maritime boundary (intersection with 39°00' N latitude).

(4) *SNE cod stock area.* The SNE cod stock area is the area defined by straight lines connecting the following points in the order stated and bounded by the coastline of the United States:

TABLE 4 TO PARAGRAPH (a)(4)—SNE COD STOCK AREA

Point	N latitude	W longitude
SNE1	(1)	70°00'
SNE2	39°00'	69°00'
SNE3	39°00'	(2)
SNE4	35°00'	(2)
SNE5	35°00'	(3)

¹ Intersection of south-facing coastline of Cape Cod and 70°00' W long.

² U.S./Canada maritime boundary.

³ Intersection of east-facing coastline of Outer Banks, NC, and 35°00' N lat.

* * * * *

■ 8. Amend § 648.89 as follows:

■ a. Revise Table 1 to Paragraph (b)(1), Table 2 to Paragraph (c)(1), and Table 3 to Paragraph (c)(2); and

■ b. Add paragraph (g).

The revisions and addition read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

* * * * *

(b) * * *

(1) * * *

* * * * *

(c) * * *

(1) * * *

TABLE 2 TO PARAGRAPH (c)(1)

Stock	Open season	Possession limit	Closed season
EGOM Cod	September 1–October 31	1	May 1–August 31; November 1–April 30.
WGOM Cod	September 1–October 31	1	May 1–August 31; November 1–April 30.
GB Cod	September 1–October 31	1	May 1–August 31; November 1–April 30.
SNE Cod	CLOSED	No Retention ..	All Year.
GB Haddock	All Year	Unlimited	N/A.
GOM Haddock	May 1–February 28 (or 29); April 1–30	15	March 1–March 31.
GB Yellowtail Flounder	All Year	Unlimited	N/A.
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A.
CC/GOM Yellowtail Flounder ...	All Year	Unlimited	N/A.
American Plaice	All Year	Unlimited	N/A.
Witch Flounder	All Year	Unlimited	N/A.
GB Winter Flounder	All Year	Unlimited	N/A.
GOM Winter Flounder	All Year	Unlimited	N/A.
SNE/MA Winter Flounder	All Year	Unlimited	N/A.
Redfish	All Year	Unlimited	N/A.
White Hake	All Year	Unlimited	N/A.
Pollock	All Year	Unlimited	N/A.
Northern Windowpane Flounder.	CLOSED	No retention ...	All Year.
Southern Windowpane Flounder.	CLOSED	No retention ...	All Year.
Ocean Pout	CLOSED	No retention ...	All Year.
Atlantic Halibut	See paragraph (c)(3) of this section..	No retention ...	All Year.
Atlantic Wolffish	CLOSED	No retention ...	All Year.

(2) * * *

TABLE 3 TO PARAGRAPH (c)(2)

Stock	Open season	Possession limit	Closed season
EGOM Cod	May 1–May 31; September 1–October 31	1	June 1–August 31; November 1–April 30.
WGOM Cod	May 1–May 31; September 1–October 31	1	June 1–August 31; November 1–April 30.
GB Cod	May 1–May 31; September 1–October 31	1	June 1–August 31; November 1–April 30.
SNE Cod	CLOSED	No Retention ..	All Year.
GB Haddock	All Year	Unlimited	N/A.
GOM Haddock	May 1–February 28 (or 29) April 1–30	15	March 1–March 31.
GB Yellowtail Flounder	All Year	Unlimited	N/A.
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A.
CC/GOM Yellowtail Flounder ...	All Year	Unlimited	N/A.
American Plaice	All Year	Unlimited	N/A.
Witch Flounder	All Year	Unlimited	N/A.
GB Winter Flounder	All Year	Unlimited	N/A.
GOM Winter Flounder	All Year	Unlimited	N/A.
SNE/MA Winter Flounder	All Year	Unlimited	N/A.
Redfish	All Year	Unlimited	N/A.
White Hake	All Year	Unlimited	N/A.
Pollock	All Year	Unlimited	N/A.
N Windowpane Flounder	CLOSED	No retention ...	All Year.
S Windowpane Flounder	CLOSED	No retention ...	All Year.
Ocean Pout	CLOSED	No retention ...	All Year.
Atlantic Halibut	See paragraph (c)(3) of this section..	No retention ...	All Year.
Atlantic Wolffish	CLOSED	No retention ...	All Year.

* * * * *

(g) *Regional Administrator authority for GB cod and EGOM cod recreational measures.* For the 2026 fishing year, the Regional Administrator, after consultation with the NEFMC, may adjust recreational measures for GB cod and EGOM cod to set consistent

measures with other stock areas, as appropriate. Appropriate measures, including adjustments to fishing seasons, minimum fish sizes, or possession limits, may be implemented in a manner consistent with the Administrative Procedure Act, with the final measures published in the **Federal**

Register prior to the start of the fishing year when possible. Separate measures may be implemented for the private and charter/party components of the recreational fishery. Measures in place in fishing year 2026 will be in effect beginning in fishing year 2027, and will remain in effect until they are changed

by a Framework Adjustment or Amendment to the FMP, or through an emergency action.

* * * * *

■ 9. Amend § 648.90 by revising paragraph (a)(4)(iii)(A)(1) and adding paragraphs (a)(4)(iii)(I)(2) and (3) to read as follows:

§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.

* * * * *

(a) * * *

(4) * * *

(iii) * * *

(A) * * *

(1) *Stocks allocated.* Unless otherwise specified in this paragraph (a)(4)(iii)(A), the ABCs/ACLs for WGOM cod and GOM haddock set pursuant to paragraph (a)(4) of this section shall be divided between commercial and recreational components, based upon the average proportional catch of each component for each stock during fishing years 2001 through 2006. The ABCs/ACLs for SNE cod set pursuant to paragraph (a)(4) of

this section shall first have the state and other non-specified fisheries deducted as specified in paragraphs (a)(4)(iii)(B) and (C) of this section, and then divided between commercial and recreational components, as specified in a framework adjustment.

* * * * *

(I) * * *

(2) *WGOM cod.* For the purposes of allocating to the commercial NE multispecies fishery, the remaining ABC for WGOM cod shall first be apportioned between the WGOM cod northern and southern portions as follows: 68 percent of the remaining ABC to the northern portion and 32 percent of the remaining ABC to the southern portion. The share of the northern portion of WGOM cod allocated to a sector will be based on the cumulative GOM cod PSCs of vessels participating in sectors calculated pursuant to § 648.87(b)(1)(i)(E). The share of the southern portion of WGOM cod allocated to a sector will be based on the cumulative GB cod PSCs of vessels participating in sectors. The

northern and southern portions shall then be summed for a final allocation to each sector and to vessels operating under the provisions of the common pool. The WGOM cod allocation may be fished throughout the entire geographic area of the WGOM cod stock area, as defined at § 648.88(a)(2).

(3) *Atlantic cod stocks except WGOM cod.* For the purpose of allocating EGOM cod to the commercial NE multispecies fishery, the cumulative GOM cod PSCs of vessels participating in sectors calculated pursuant to § 648.87(b)(1)(i)(E) shall be applied to the remaining ABC for EGOM cod. For the purposes of allocating GB cod and SNE cod to the commercial NE multispecies fishery, the cumulative GB cod PSCs of vessels participating in sectors calculated pursuant to § 648.87(b)(1)(i)(E) shall be applied to the remaining ABC for GB cod and SNE cod.

* * * * *

[FR Doc. 2026–13153 Filed 6–29–26; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 91, No. 124

Tuesday, June 30, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 360

RIN 3064–AG21

Resolution Submissions Required for Covered Insured Depository Institutions

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: The FDIC is seeking comment on a proposal to revise its regulations that require resolution submissions by insured depository institutions (IDIs) with at least \$50 billion in total assets. The proposed rule would modify the current rule by raising and automatically updating the dollar threshold that determines the scope of applicability; reducing the requirements regarding the content of resolution submissions provided to the FDIC, with a focus on information that most directly supports the FDIC's resolution readiness in the event of material distress and failure of a covered IDI; and standardizing content requirements for covered IDIs. The proposed rule would also eliminate the FDIC's credibility assessment of submissions provided by IDIs, as well as expectations for capabilities testing under the current rule.

DATES: Comments must be received by August 31, 2026.

ADDRESSES: You may submit comments on the notice of proposed rulemaking, identified by RIN 3064–AG21, by any of the following methods:

- **Agency Website:** <https://www.fdic.gov/resources/regulations/federal-register-publications/>. Follow instructions for submitting comments on the FDIC's website.
- **Email:** comments@fdic.gov. Include "RIN 3064–AG21" in the subject line of the message.
- **Mail:** Jennifer M. Jones, Deputy Executive Secretary, Attention:

Comments/Legal OES (RIN 3064–AG21), Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

- **Hand Delivery/Courier:** Comments may be hand delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street NW) on business days between 7:00 a.m. and 5:00 p.m.

Public Inspection: All comments received, including any personal information provided, will be posted without change to <https://www.fdic.gov/resources/regulations/federal-register-publications/>. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of this document will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

This proposal, all comments received, and a summary of not more than 100 words of the proposed rule pursuant to the Providing Accountability Through Transparency Act of 2023 are available at <https://www.fdic.gov/federal-register-publications/>.

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I. Introduction/Policy Objective

The FDIC's current regulation "Resolution Plans Required for Insured Depository Institutions with \$100 Billion or More in Total Assets; Informational Filings Required for Insured Depository Institutions with At Least \$50 Billion but Less Than \$100 Billion in Total Assets,"¹ issued in 2024 (current rule), requires insured depository institutions (IDIs) with total assets of at least \$100 billion to submit comprehensive resolution plans to support the FDIC's ability to undertake an efficient and effective resolution under the Federal Deposit Insurance Act of 1950 (FDI Act), as amended, should such an IDI fail. The current rule requires IDIs with total assets of at least \$50 billion but less than \$100 billion to submit more limited informational filings to assist the FDIC in advancing its operational readiness to resolve such IDIs. Informational filings differ from

¹ 12 CFR 360.10. The rule was published with an effective date of October 30, 2024. 89 FR 2024 (July 9, 2024).

resolution plans in that they do not involve adoption of a hypothetical failure scenario (as defined in the current rule) or development of a resolution strategy and related valuation information. The current rule provides for engagement between the FDIC and IDIs subject to the current rule on resolution matters, and for periodic testing to validate key capabilities and processes needed in a resolution, such as continuation of critical banking services and potential marketing of the IDI franchise (as defined in the current rule) or its components. The current rule also includes criteria to assess the credibility of IDIs' resolution submissions and describes the FDIC's approach to providing feedback. The current rule amended a rule originally finalized in 2012.² This resolution planning requirement was established to facilitate the FDIC's readiness to resolve such an IDI under the FDI Act.

Under the proposal,³ covered IDIs (CIDs) would be required to provide targeted information most critical for resolving the institution in a cost-effective manner. The proposal would generally eliminate requirements to provide extensive narratives and analysis, such as those related to hypothetical resolution strategies and scenarios. The FDIC's experience with past large bank failures underscores the importance of obtaining key information in advance of failure to maximize the likelihood of an optimal resolution outcome, which is typically a rapid sale. The proposed rule reflects this experience.

Pursuant to Section 7 of the FDI Act,⁴ the FDIC has established a risk-based assessment framework for calculating and charging all IDIs a quarterly assessment for deposit insurance.⁵ The FDIC is also issuing a separate, simultaneous proposal to revise its deposit insurance assessments framework (Assessments proposal) that would implement a resolution readiness adjustment (RRA) that would provide assessment adjustments to large or highly complex institutions, as defined in the Assessments proposal, that can (1) populate a virtual data room (VDR) within a specified period of time and (2) provide the FDIC access to an institution's service provider(s) and/or

internal systems to obtain detailed bank data needed to manage and market the bank in receivership. The RRA would be applied to a large or highly complex institution's assessment rate in recognition of the expected reduction in losses to the Deposit Insurance Fund in the event of the failure of a bank that successfully completes the VDR testing exercise or provides the prescribed data access.

Finally, the current rule's dollar threshold to determine whether an IDI is subject to the rule is static, with no mechanism for periodic adjustments over time to reflect inflation or economic growth. As discussed in the FDIC rule "Adjusting and Indexing Certain Regulatory Thresholds (2025 Thresholds Rule)," ⁶ the use of applicability thresholds allows the FDIC to differentiate and tailor regulatory requirements based on an institution's size or other considerations, while static dollar-based thresholds can lead to unintended policy consequences if threshold levels are not periodically updated or indexed to inflation. Automatic adjustments would more efficiently and transparently preserve a threshold's intended application and maintain alignment with intended policy objectives over time.

Based upon these considerations, the FDIC is proposing changes to raise and automatically update the scope of the rule and recalibrate resolution submissions to focus on the information that most directly supports the FDIC's preparedness to execute a resolution. Specifically, the proposed rule would:

- Raise the dollar threshold determining whether a CID is subject to the rule from \$50 billion to \$100 billion to reflect inflation from the date of the 2012 rule's initial implementation and other policy considerations, and provide for automatic future adjustments pursuant to an indexing methodology.
- Rename filings under the rule as "resolution submissions."
- Move all CIDs to a three-year cycle for filing resolution submissions and obtain information on material changes relevant for the FDIC's resolution planning through the notice of extraordinary event process, rather than by relying on interim supplements (as defined in the current rule).
- Eliminate the public section of the submissions.
- Eliminate more than half of the current rule's "content requirements" for submissions in order to focus on basic operational information to understand structure and infrastructure

of CIDs. For example, the proposed rule would eliminate:

- Requirements focused on resolution-related hypothetical analyses and content, such as development of a strategy and valuation analysis (both of which would need to be undertaken by the FDIC in a failure) and adoption of a failure scenario.
- Other CID-generated resolution analyses and recommendations regarding optionality, challenges, and mitigating actions in resolution relevant to the FDIC's resolution responsibilities, such as identification of franchise components (as defined in the current rule) that can be separated and marketed in a timely manner in resolution, potential economic effects of the CID's resolution, and impact of extraordinary events on resolvability.
- Descriptions of the CID's processes and procedures, including in areas such as critical services, capital structure and funding sources, communications, corporate governance, and reporting on contingency planning and similar exercises.
- Expectations for, and descriptions of, the CID's capabilities.
 - Eliminate capabilities testing.
 - Eliminate credibility determinations and the approach to feedback (*i.e.*, "material weakness" or "significant finding," as described in the current rule).
 - Maintain, with certain revisions, key informational content requirements such as deposits; other financial information; corporate structure; key personnel; and information systems.
 - Revise certain content requirements to obtain the most pertinent information on:
 - Interconnections between the CID and its affiliates while eliminating the need for the CID to identify resolution obstacles and mitigants.
 - Material loan portfolios, to narrow the requirement from the broader concept of material asset portfolios (as defined in the current rule).
 - Digital services and products, by clarifying content to be reported while eliminating resolution-related and hypothetical analyses of franchise value and depositor behavior.
 - Add new aspects to certain content requirements to enhance the FDIC's ability to plan and execute a resolution, including:
 - Information to better understand the CID's organization, such as an organizational chart and information about non-controlling interests in limited liability companies, partnerships, and joint ventures or similar arrangements.

² The 2012 rule was initially published as an interim final rule with an effective date of January 1, 2012. 76 FR 2011 (Sept. 11, 2011); The 2012 rule was finalized and became effective on April 1, 2012. 77 FR 3075 (Jan. 23, 2012).

³ Terms not otherwise defined herein have the definitions set forth in § 360.10(b) of the proposed rule.

⁴ See 12 U.S.C. 1817(b).

⁵ 12 CFR part 327.

⁶ 90 FR 55789 (Dec. 4, 2025).

- A mapping of the CIDI's information technology architecture, and information on processing cut-off times for deposit and loan operations.

- Certain deposit information important for resolution execution, such as a list of deposit products; sweep account information; and any controls to restrict funds movement to or from accounts in foreign branches.

- Certain information on qualified financial contracts (QFC) to understand the risks managed using QFCs.

- Implement a transition such that initial submissions under the final rule would be due no earlier than 270 days after the final rule's effective date.

In finalizing the proposed rule, the FDIC proposes to supersede all prior guidance, frequently asked questions, and feedback related to the current rule.

II. Proposed Rule

A. Scope and Purpose

The FDIC is proposing to update the dollar threshold that determines whether an IDI is a CIDI under the proposed rule to reflect historical inflation and other policy considerations, and to provide automatic adjustments to the threshold over time using an indexing methodology to account for future inflation. The threshold has not been changed or adjusted since the adoption of the 2012 rule. The proposed rule would initially adjust the threshold to reflect historical inflation (measured as the percentage change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W)),⁷ based off the date of initial implementation of the 2012 rule (*i.e.*, the April 1, 2012 effective date). The proposed rule's increase in the threshold from \$50 billion to \$100 billion would also take into account the costly experience of 2023, when three IDIs with total assets ranging from approximately \$110 billion to \$230 billion failed and other IDIs were impacted. In particular, the 2023 failures highlighted the importance of advance planning for IDIs with \$100 billion or more in total assets. In part, because larger institutions are subject to greater public scrutiny, they tend to be more susceptible to liquidity-induced failures and fail with shorter runways.

⁷ The U.S. Bureau of Labor Statistics publishes the CPI-W on a monthly basis. The CPI-W is used to annually adjust benefits paid to Social Security beneficiaries and Supplemental Security Income recipients. *See*, U.S. Social Security Administration, CPI for Urban Wage Earners and Clerical Workers, available at www.ssa.gov/oact/STATS/cpiw.html. Any reference to inflation herein refers to inflation as measured under the CPI-W, unless specifically noted otherwise.

In these cases, it is important for the FDIC to have the most pertinent information in order to plan and execute a timely sale.⁸ Under the proposed rule, the baseline threshold would be \$100 billion as of the effective date of the final rule. As a result of the proposed baseline threshold, IDIs that are group B CIDs under the current rule would no longer be subject to the rule.

The proposed rule incorporates an indexing methodology for subsequent, periodic adjustments of the threshold that would be implemented automatically every three consecutive calendar years. The adjustments provided for in the proposed rule are intended to help preserve, in real terms, the threshold, thereby avoiding the outcome where IDIs become subject to additional or more stringent regulatory requirements due solely to inflation rather than actual changes in the institution's size, risk profile, or level of complexity.

This aspect of the proposed rule is part of a multi-phase effort to reevaluate thresholds within the FDIC's regulations, and the approach is consistent in most ways with the 2025 Thresholds Rule. One difference between the proposed rule and the Thresholds Rule is the cycle for adjustments, as a three-year frequency for inflation adjustments may be more appropriate in the context of the proposed rule, which includes a three-year cycle for submissions by CIDs, rather than the two-year cycle used in the 2025 Thresholds Rule. It is currently anticipated that the initial adjustment to the baseline CIDI threshold of \$100 billion would be October 1, 2030, and adjustments would generally be effective October 1, using CPI-W through August 31.

Under the proposed rule and consistent with the 2025 Thresholds Rule, the FDIC generally would announce threshold adjustments pursuant to the indexing methodology by publishing a final rule in the **Federal Register**. Such final rules would amend the Code of Federal Regulations to reflect the adjusted threshold and would not be subject to a notice and comment period. Although the FDIC would fully expect to publish a final rule in the **Federal Register**, the adjustment would occur even in the absence of a publication in the **Federal Register**.

⁸ Signature Bank, which had total assets of \$110.4 billion as of December 2022 and failed in March 2023, had not yet made any submission under the 2012 rule at the time of its failure; its first submission would have been due in June 2023. Targeted resolution submissions would have facilitated the FDIC's preparations to more effectively and efficiently market the failed IDI.

As discussed above, under the current rule, group A CIDs submit resolution plans and group B CIDs submit a subset of that information in the form of informational filings. Most IDIs are on a triennial cycle for these full resolution submissions and submit interim supplements annually in the interim period. The proposed rule envisions a sharpened focus of submissions on the operational information that most directly supports the FDIC's preparedness for rapid action in the event of an IDI's failure. It would involve a smaller set of content requirements and the elimination of all requirements that are applicable only to group A CIDs' resolution plans under the current rule, as those requirements generally require CIDI-generated hypothetical analysis that replicates what the FDIC would need to undertake in advance of failure, or at the point of failure.

Under the current rule, the nine group A CIDs that are affiliated with U.S. global systemically important banks (GSIBs) are on a biennial filing cycle for filing full resolution submissions and are not required to submit interim supplements in the calendar year in which they file resolution plans under the rule (*i.e.*, the calendar year in which their affiliates submit resolution plans under section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as amended,⁹ and its implementing rule (Title I rule)).¹⁰ Because resolution plans under the current rule and the Title I rule (Title I resolution plans) are expected to be submitted in alternating years, these nine CIDs are not expected to submit interim supplements. All other group A CIDs, as well as all group B CIDs, are on a triennial cycle for filing full resolution submissions under the current rule and are required to submit interim supplements in the years when no full resolution submission is due. To balance the need to provide current information to the FDIC for its resolution planning and the need to minimize burden on CIDs, the proposed rule would provide for a three-year submission cycle for all CIDs and eliminate interim supplements for all CIDs as discussed below. Potential overlaps associated with submissions under the current rule and the Title I rule would be further addressed by narrowing the focus under the proposal to information most critical to support the FDIC's resolution of the institution under the FDI Act and sustaining

⁹ 12 U.S.C. 5365(d).

¹⁰ 84 FR 59194 (Nov. 1, 2019), codified at 12 CFR parts 381 and 243.

alignment, where feasible, between similar concepts used in both contexts (as discussed later).

The FDIC invites comment on all aspects of the scope of the proposed rule and submission cycle. In particular, the FDIC seeks comment on the following aspects of the proposed rule:

(1) Do commenters find the basis for the required content associated with submissions under this proposal, and the content's relevance for the FDIC's planning for resolution execution, as presented in this proposal, to be sufficiently compelling? Please explain why or why not.

(2) Do commenters agree that \$100 billion is the appropriate initial update to the threshold to distinguish CIDs from IDs not subject to the proposed rule?

(3) Would an alternative threshold (e.g., \$75 billion, \$250 billion, \$750 billion) be more appropriate to establish the scope of applicability? If so, explain the advantages of the alternative threshold. Should IDs that are subsidiaries of bank holding companies subject to Title I resolution plan requirements, or are subsidiaries of a subset of such bank holding companies (e.g., bank holding companies with a single point of entry resolution strategy), be exempt from the proposed rule?

(4) Is three years an appropriate frequency of adjustments to the threshold to determine the scope of IDs subject to the rule? Would an alternative frequency work better under the proposed rule and its proposed three-year submission cycle?

(5) Do commenters agree that CPI-W is the appropriate reference index to use under the proposed indexing methodology? Are there other indices (e.g., GDP) that should be considered? If so, please explain the advantages and disadvantages of those indices relative to CPI-W.

(6) To what extent do commenters consider it likely that an IDI could become a CID, begin the work to prepare its initial resolution submission, and later cease being a CID as a result of an automatic threshold adjustment before it has filed its initial resolution submission? How could this scenario best be managed?

(7) Is the proposed approach to publishing changes to the threshold over time appropriate? Is there an alternative approach that could be more effective?

(8) Do commenters consider there to be significant benefits to differentiating the types of submissions made by CIDs based on size or any other metric?

(9) Are there any other operational or timing issues that need to be considered in the proposed rule?

(10) In commenters' view, is the proposed three-year submission cycle more suitable for CIDs that are biennial filers under the current rule (i.e., CID affiliates of U.S. GSIBs)? Is the expected overlap every six years in submissions by those CIDs under the proposed rule, and the submission of Title I resolution plans by their affiliates, less burdensome than the higher frequency of submissions under the current rule?

(11) In commenters' view, would a lower frequency for submissions for all CIDs, such as a five- or ten-year submission cycle, be more appropriate under the proposed rule? If so, please explain why.

B. Deleted, Modified, and New Definitions

Definitions that are no longer utilized in the proposed rule would be deleted from the definition section and from the text of the proposed rule. Certain definitions would be revised to conform to other changes to the proposed rule.

The definition of "CID" would be revised to reflect the elimination of the distinction between the group A CIDs and the group B CIDs. The proposed rule would add language to the definition of CID to provide the process for a de novo-chartered institution to become a CID. The proposed rule would also replace the numerical dollar amount of the threshold for becoming a CID with a new defined term "CID threshold amount" to reflect the ongoing adjustments to such number pursuant to a threshold indexing methodology.

The term "CID threshold amount" would be added as a definition and means the dollar amount that determines whether an IDI is considered a CID pursuant to the rule, as adjusted from time to time. The baseline CID threshold amount would be \$100 billion as of the effective date of the final rule.

The definition of "Critical services" would be revised to conform with other changes to the proposed rule and to include reference to critical operations of the CID as determined pursuant to 12 CFR 381.3(b) that have not yet been included in a Title I resolution plan.

The definition of "Critical services support" would revise the term "systems" to specify "management information systems and applications."

The definition of "Key personnel" would be revised to conform with other changes to the proposed rule, namely deleting reference to franchise components and replacing the analysis regarding resolution with an analysis of operational continuity.

The definition of "Material change" would be revised to reflect other

changes in the proposed rule, namely, the removal of the requirement for CIDs to provide a resolution strategy. The revised definition would be a change in organization, operations, or strategic direction of the CID that would have a material financial or operational effect on the CID, as described in the resolution submission. The examples offered for reference would be revised for clarity and to conform with other changes in proposed rule.

The definition of "Material entity" would be revised for clarity.

The term "Material loan portfolio" would be added as a definition and means a pool or portfolio of loans that is significant in terms of income or value to the CID or may, in the view of the CID, have limited bidder interest or marketability.

The definitions of "Parent company" and "Parent company affiliate" would be deleted and the definitions of "Affiliate" and "Subsidiary" would remain in the proposed rule. The terms "Affiliate" or "Subsidiary" would replace the terms "Parent company" and "Parent company affiliate" throughout the proposed rule, as appropriate. These changes, and any other related changes, are being made to the proposed rule to streamline the number of definitions and to clarify the text in the proposed rule.

"FDI Act" and "Resolution submission" would be added as definitions in the proposed rule.

The definitions "Affiliate," "Company," "Control," "Subsidiary," and "United States" would be revised to include their complete definitions rather than refer back to a law or regulation.

The FDIC invites comments on all aspects of the proposed definitions. In particular, the FDIC seeks comment on the following aspects of the proposed rule:

(12) Are all definitions clear and useful? Should additional changes be made? If yes, please provide support for any such recommended changes.

(13) For the definition of material change, the proposed rule seeks to balance the objectives of (i) ensuring the concept is well tailored to the context of the proposed rule; (ii) removing aspects of the current rule's definition that require CIDs to consider their resolvability; and (iii) maintaining alignment with the approach to the similar concept in the Title I rule where feasible, recognizing that certain banking organizations are subject to both rules. Do commenters consider the proposed definition to strike the appropriate balance between these objectives? If not, how would the

commenter propose to change the definition?

(14) *The definition of material entity entails the CIDI developing and implementing a methodology for determining materiality to narrow the scope of information reported in the submission and prioritizes alignment with the similar concept in the Title I rule. How do commenters view the tradeoffs between using this type of concept or a broader concept such as “legal entity” that would not entail a methodology but would have implications for the amount of information that would need to be provided to be responsive to related content requirements throughout the proposed rule? If a broader concept such as “legal entity” were adopted, how might reduced alignment between the concepts used in submissions under the proposed rule and Title I resolution plans of certain CIDs’ affiliates impact burden?*

C. Resolution Submissions Required

Under the paragraph of the proposed rule titled “Submission date,” all CIDs would be required to respond to the same content requirements in the form of a resolution submission filed triennially, eliminating the concepts of biennial filers and triennial filers found in the current rule. The paragraph also sets forth the process for determining the initial filing date under the proposed rule for any IDI that is a CIDI on the effective date of a revised rule.

The paragraph in the proposed rule titled “Resolution submission by new CIDs” continues to require new CIDs to provide their initial submissions on or before a date specified in writing by the FDIC, which would be no earlier than 270 days after the date on which the IDI became a CIDI. The text of the current rule regarding submissions after a CIDI’s transition between group A and group B would be deleted.

The paragraph in the current rule titled “Notice of extraordinary event” would be revised to reflect the changes to the proposed rule that eliminate the requirements for CIDs to produce resolution-related analysis, and to adapt the content of the notice to proposed changes to the submission cycle. The notice would continue to be provided by a CIDI with the same timing and under the same circumstances as the current rule. Under the proposed rule, the notice would no longer include a discussion of how the event impacts the CIDI’s resolvability, and would instead include a description of any material change resulting from or reasonably anticipated as a result of that event. This would ensure that the FDIC receives

timely, updated information for resolution preparedness reflecting the specific circumstances of the CIDI, and the more targeted approach would address a gap otherwise created by the elimination of the more extensive and one-size-fits-all approach of the interim supplement under the current rule (discussed further below). The proposed rule would eliminate the requirement for such material changes to be addressed in a subsequent submission, since the information would be provided in the notice. The proposed rule would clarify that a new CIDI that has not yet filed its initial resolution submission under the rule does not need to provide a notice of extraordinary event to the FDIC.

(15) *The proposed rule seeks to balance (i) eliminating the requirement for CIDs to produce resolvability-related analysis, in line with the principles underpinning this proposed rulemaking; (ii) ensuring the FDIC would still obtain timely information on material changes in the three-year interim period between submissions in the absence of the interim supplement; and (iii) preserving alignment, where feasible, with the notice of extraordinary event process in the Title I rule, recognizing that banking organizations that have obligations under both rules may be filing notices for a given event in both contexts. Do commenters consider that the appropriate balance would be achieved by the proposed rule? If not, how could the proposed rule be amended?*

The paragraph in the current rule titled “Approval by the CIDI board of directors” would be deleted and under the proposed rule submissions would no longer need to be approved by the CIDI’s board of directors.

The paragraph in the current rule titled “Incorporation from other sources” would be renamed “Requirements for incorporation from other sources.” It would be revised for clarity and to conform with other changes to the proposed rule, namely removing reference to submission of analysis, and remains otherwise substantively unchanged.

D. Content of the Resolution Submissions for CIDs

General Principles and Revisions

The proposed rule deletes certain content requirements from the current rule, including requirements related to CIDI-generated analysis that replicates what the FDIC would need to undertake in advance of failure, or at the point of failure, of the CIDI. Other content requirements of the current rule are

deleted in the proposed rule because they relate to the CIDI’s capabilities, processes, and procedures, or because the FDIC may have alternative sources of information. The proposed deletion of these content requirements is consistent with the intended shift to focus future submissions on the operational information that most directly supports the FDIC’s resolution readiness.

The proposed rule would retain content requirements for operational information from the current rule that helps to inform the FDIC’s development of a range of options that could be used in the event of a CIDI’s material distress and failure, including a rapid sale, liquidation, or the establishment of a bridge depository institution, as appropriate for the institution and the circumstances at the time.

Most of the text of the first paragraph of § 360.10(d) of the current rule would be deleted. The proposed rule would no longer have different content requirements for group A CIDs and group B CIDs and, therefore, information regarding informational filings would no longer be applicable.

The following paragraphs of the current rule would be deleted in the proposed rule, reflecting that they require CIDI-generated hypothetical analysis that replicates what the FDIC would need to undertake in advance of failure, or at the point of failure, of the CIDI: § 360.10(d)(1) Identified strategy; § 360.10(d)(2) Failure scenario; § 360.10(d)(12) Valuation to facilitate FDIC’s assessment of least-costly resolution method; § 360.10(d)(19) Economic effects of resolution; § 360.10(d)(20) Non-deposit claims; and § 360.10(d)(27) Any other material factor. For the same reason, all of the requirements in § 360.10(d)(10) Franchise components, with the exception of a requirement on broker-dealer affiliates that does not require consideration of the resolution context, would be deleted.

The following paragraphs of the current rule would be deleted from the proposed rule, reflecting that they are content requirements that are focused on the CIDI’s capabilities, processes, and procedures: § 360.10(d)(5) Methodology for material entity designation; § 360.10(d)(25) Corporate governance; and § 360.10(d)(26) CIDI’s assessment of the full resolution submission. In addition, most of the requirements in § 360.10(d)(24) Communications playbook would be deleted for this reason.

(16) *What requirements of the proposed rule, if any, should be eliminated? Explain the rationale for the*

elimination of each requirement identified.

(17) Do commenters believe that any of the content requirements that would be removed in the proposed rule should be retained? If so, which one(s) and why?

Summaries

The paragraph of the current rule titled “Executive summary” would be renamed “Summary of other updates since prior submission” in the proposed rule. The proposed rule would be revised to include only two items in such paragraph: a description of each material change since the prior resolution submission that has not already been addressed in a notice of extraordinary event; and a description of the changes to the CIDI’s previously submitted resolution submission resulting from any change in law or regulation or guidance. Reflecting the narrower focus of this revised requirement, this paragraph would be relocated to the end of § 360.10(d) of the proposed rule.

Organizational Structure: Legal Entities and Core Business Lines

The paragraph in the current rule titled “Organizational structure: Legal entities; core business lines; and branches” would be renamed “Organizational structure: legal entities and core business lines.” As discussed below, additional changes would be made to streamline the proposed rule by incorporating in this section relevant aspects of the current rule’s requirements related to cross-border elements located at § 360.10(d)(21) of the current rule.¹¹

Section 360.10(d)(1)(i) of the proposed rule revises the similar paragraph of the current rule to enhance clarity and to add the content requirement for a CIDI to provide certain organizational charts, which the FDIC found to be a common practice by many CIDs when providing content responsive to the current rule’s requirement and would now be incorporated explicitly. The organizational charts may be something the CIDI already has prepared or could easily adapt from existing materials, and they provide helpful context for the descriptions of the structures and reduce the likelihood the FDIC would need to ask clarifying questions.

Section 360.10(d)(1)(ii) of the proposed rule retains certain content requirements from § 360.10(d)(21) of the

current rule with revised wording to enhance clarity. The proposed rule would require CIDs to describe all components of the CIDs’ and their affiliates’ operations that are based or located outside the United States that contribute to the value, revenues, or operations of the CIDI and to identify all authorities with regulatory or supervisory authority over these operations. Where the CIDI has a significant interest (e.g., a controlling interest or a significant economic interest) in a foreign joint venture that contributes to revenue or operations of the CIDI, that information should be included. Entities with no meaningful function or contribution to the CIDI’s operations, such as single purpose real estate holding companies, may be excluded.

Section 360.10(d)(1)(iii) of the proposed rule revises and simplifies the similar paragraph of the current rule to require a CIDI to identify and describe each of the CIDI’s core business lines, including the assets and annual revenue for each, clearly identifying revenue to the CIDI, and to describe whether any core business line draws additional value from, or relies on the operations of an affiliate of the CIDI, and identify any such operations that are based or located outside the United States. The proposed rule would also incorporate part of the mapping requirements located at § 360.10(d)(4)(iii) of the current rule, namely, to map core business lines to material entities.

Section 360.10(d)(1)(iv) of the proposed rule incorporates certain elements of the first sentence of § 360.10(d)(4)(vi) of the current rule. Section 360.10(d)(1)(iv) of the proposed rule would require a CIDI to identify all other offices or agencies, not otherwise referenced in paragraphs (d)(1)(i)–(iii), with operations based or located outside of the United States that contribute financially or operationally to the CIDI. The second sentence of § 360.10(d)(4)(vi) of the current rule is deleted, thus the proposed rule would no longer require a CIDI to provide metrics that appropriately depict the size, significance, and location of such entities.

The proposed rule would add § 360.10(d)(1)(v) and require CIDs to identify the CIDI’s non-controlling ownership interests in limited liability companies, investments in partnerships, and involvement in joint ventures or similar arrangements. It is important to the FDIC’s resolution planning purposes to obtain organizational reporting beyond affiliates, wholly- and majority-owned subsidiaries, other legal entities, and core business lines, to ensure

visibility into other forms of entity exposure and methods through which the CIDI engages in business activities. Minority interests in limited liability companies and partnerships and involvement in joint ventures may result in the CIDI’s exposure to specialized business activities, structural complexity, or restricted transferability, all of which could impact the speed of marketability or other disposition methods during resolution. Examples of structures that may be relevant to this content requirement include special purpose vehicles formed for community development purposes, tax credit programs, or other complex investments. Because these are non-controlling interests or small-dollar interests, the dollar volume of total exposures are publicly reported in broader asset categories and less visible from an organizational perspective. Incorporating this requirement into this content item in the proposed rule would provide the FDIC with a more comprehensive view of the CIDI’s business exposures.

Aspects of the content requirements located at § 360.10(d)(4)(iv) of the current rule would be revised and incorporated into § 360.10(d)(3) of the proposed rule, while the requirement for information on the CIDI’s domestic branches would be deleted due to the FDIC’s ability to obtain this information from other sources. The content requirements located at § 360.10(d)(4)(v) of the current rule related to regulated subsidiaries, and all associated informational requirements elsewhere in the current rule, would be deleted in the proposed rule.

The FDIC invites comments on all aspects of the proposed revised approach to organizational structure, legal entities, and core business lines. In particular, the FDIC seeks comment on the following aspects of the proposed rule:

(18) Do commenters agree with the proposed changes to streamline this aspect of the proposed rule? Are there additional changes that the FDIC should consider?

(19) Do commenters find the requirement to identify the CIDI’s non-controlling ownership interests in limited liability companies, investments in partnerships, and involvement in joint ventures or similar arrangements to be sufficiently clear and appropriate to achieve the FDIC’s policy goals without unduly increasing burden? If not, how could it be further clarified or otherwise amended?

¹¹ The paragraph “Cross-border elements” would be deleted and certain of its content would be incorporated into other paragraphs of the proposed rule.

Interconnections

The paragraph of the current rule titled “Separation from parent; potential barriers or material obstacles to orderly resolution” would be renamed “Interconnections” in the proposed rule and revised in its entirety. The revisions reflect the intention to focus the submission on operational information needed for the FDIC’s resolution preparedness, as opposed to hypothetical resolution-related analysis from the CIDI. The proposed rule would require a CIDI to describe its reliance in its day-to-day operations on its affiliates. Examples of such reliance could include funding, technology, or the human resources function. To streamline requirements, the proposed § 360.10(d)(2)(ii) would retain a relevant part of the content requirements from § 360.10(d)(10)(vii) of the current rule to provide that if a CIDI’s affiliate is a broker-dealer that provides services to the CIDI or customers of the CIDI, the CIDI should describe such services and the integration of the broker-dealer with the CIDI’s business and operations.

The FDIC invites comments on all aspects of the proposed revised approach to interconnections informational requirements. In particular, the FDIC seeks comment on the following aspects of the proposed rule:

(20) Do commenters find the requirements to be sufficiently clear? If not, how could they be further clarified?

Deposit Activities

The paragraph of the current rule titled “Overall deposit activities,” located at § 360.10(d)(7) would be renamed “Deposit activities” in the proposed rule. The proposed § 360.10(d)(3)(i) would revise the description of deposit activities to require a list of deposit products and a description of the source of deposits and manner in which the deposits are identified on the CIDI’s systems and records (such as product type description or general ledger description). Examples of deposit products may include retail, business, escrow, fiduciary, mortgage, or loan servicing deposit accounts; brokered and listing service deposits; deposit sweeps; and affinity or program deposits. The proposed § 360.10(d)(3)(i) would delete the following requirements under the current § 360.10(d)(7)(i): (1) a description of the insured and uninsured deposits and deposit concentrations or other aspects of the deposit base or underlying systems that may create operational complexity for the FDIC; and (2) a

description of how types or groups of deposits are related to a core business line, business segment, or franchise component.

The proposed rule would make clarifying changes to refer to deposits carried on the books and records of the CIDI’s foreign branches, rather than foreign deposits. The proposed § 360.10(d)(3)(iv) would require: (1) for each foreign branch, that the CIDI include the branch code and total deposits carried on its books and records and identify for which branches those deposits are dually payable in the United States; (2) a description of any relationship between deposit sweep arrangements with foreign branches and affiliates; and (3) a description of any controls to restrict movement of funds between accounts in foreign branches.

The proposed rule would move the deposit sweep arrangement requirements from § 360.10(d)(7)(iii) of the current rule to the proposed § 360.10(d)(3)(ii), and add the following requirements: (1) identify the settlement timeframe; and (2) describe any controls in place to immediately cease accepting, generating, and executing deposit sweep transactions or transfers effective as of the FDIC Cutoff Point, as defined in 12 CFR 360.8(b)(1). If a CIDI is a covered institution and is meeting the requirements of 12 CFR 360.9 or 12 CFR part 370 as it relates to restrictions of accounts, placing holds, or otherwise as defined in those regulations, stating that in the CIDI’s resolution submission would be sufficiently responsive to the description of controls required in the proposed § 360.10(d)(3)(ii). The proposed rule would also clarify that significant amounts of deposits would cover any individual arrangement or any group of arrangements. The proposed rule also would delete from § 360.10(d)(7)(iii) of the current rule the requirement to describe the CIDI’s reporting capabilities on sweep deposits, including whether that reporting is automated.

The proposed rule would move the requirements applicable to omnibus, deposit sweep, and pass-through accounts from § 360.10(d)(7)(iv) in the current rule to the proposed § 360.10(d)(3)(iii) and delete the requirement to provide a detailed discussion of the capabilities and timeliness of deposit reporting systems and capabilities to generate accurate and timely contact information with respect to any omnibus, deposit sweep, or pass-through accounts. The proposed rule would also require a CIDI to provide the reports used to monitor deposit sweep account arrangements, and the requirement to include an explanation

of any data lag that affects the accuracy of such reports was moved over from § 360.10(d)(7)(iii) of the current rule. The proposed approach reflects an effort to reduce burden by shifting away from requiring CIDs to draft a narrative describing their reporting capabilities and, instead, require the provision of relevant reports already being produced. This information would facilitate the FDIC’s assessment, in the event of the CIDI’s failure, of the potential utility of the CIDI’s existing reporting to support resolution activities.

Finally, the proposed rule would remove in its entirety the requirements in § 360.10(d)(7)(v) of the current rule that the CIDI provide a report on its key depositors including certain identifying information, and describe the approach to identifying those key depositors, how long it takes to generate the report, and the timeliness of the information provided. The FDIC determined that it could obtain adequate relevant information in this area from other sources.

The FDIC invites comments on all aspects of the proposed revised approach to deposit activities informational requirements. In particular, the FDIC seeks comment on the following aspects of the proposed rule:

(21) Do commenters consider the proposed elimination of the key depositor requirement to be appropriate? Is there any key depositor data that could be easily provided by CIDs that would be helpful to the FDIC in planning for a resolution and that is not readily available from other sources?

Critical Services

The paragraph of the current rule titled “Critical services” would be revised in paragraph § 360.10(d)(4)(i) of the proposed rule to clarify that the description of the CIDI’s critical services and critical services support include the names of the providers of critical services and critical services support and by clarifying which entities are subject to each paragraph.

To streamline and consolidate requirements, the proposed § 360.10(d)(4)(ii) would revise the “Critical services” paragraph to incorporate certain elements of § 360.10(d)(16) of the current rule, such that “Payment, clearing and settlement” is no longer a stand-alone paragraph. This reflects that the information required pertains only to those PCS services providers that provide a critical service or critical services support. As a result, the proposed rule would incorporate the requirement in

paragraph (ii) that for each PCS service provider of which the CIDI directly is a member or has a direct relationship and that provides a critical service or critical services support, the CIDI describe the PCS services provided, including the value and volume of activities on a per-provider basis. It also would require the CIDI to map those PCS service providers to the CIDI's legal entities and core business lines that hold direct membership, have a direct relationship, or receive such PCS services, which reflects clarifying edits to the current rule's requirement and deletion of the requirement to map PCS service providers to "franchise components."

The proposed rule would eliminate the requirement in § 360.10(d)(8)(ii) of the current rule to describe the process for identifying critical services and critical services support, and the process for collecting and monitoring the terms of contracts governing critical services and critical services support. The proposed rule would revise the requirement in § 360.10(d)(8)(iii) of the current rule to map critical services to the material entities and core business lines that they support by deleting the reference to "franchise components." The proposed rule also would include a non-substantial revision in proposed § 360.10(d)(4)(iv) by replacing the reference to "critical service providers" with "each provider of critical services."

The proposed rule would substantially revise § 360.10(d)(8)(v) in the current rule by deleting the majority of the requirements such that it would only retain the requirement for the CIDI to identify contracts for critical services and critical services support that contain provisions that, upon the insolvency of the CIDI or the FDIC being appointed receiver of the CIDI, purport to permit the service provider to stop providing services, to alter pricing, or to alter other terms of service. Deletions in this paragraph reflect that the current rule requires the CIDI to speculate about the consequences of its failure; describe its internal processes; and provide hypothetical analysis about potential obstacles to maintaining critical services continuity in failure.

The FDIC invites comments on all aspects of the proposed revised approach to critical services informational requirements. In particular, the FDIC seeks comment on the following aspects of the proposed rule:

(22) Do commenters view the proposed elimination of the requirement to describe the CIDI's process for identifying critical services and critical services support to be appropriately

burden-reducing, or do they consider the context it provides to be a useful component of their submission?

Management Information Systems; Software Licenses; Intellectual Property

The paragraph of the current rule titled "Management information systems; software licenses; intellectual property" would be revised and is located at § 360.10(d)(5) of the proposed rule, to follow requirements associated with critical services and critical services support given the relationship between these concepts. The proposed rule deletes the following requirements of the current rule in their entirety: (1) descriptions of any obstacles to maintaining access, and approaches to maintaining access, when the CIDI is in resolution for key management information systems or applications for which the CIDI or CIDI subsidiary is not the owner or licensor, located at § 360.10(d)(22)(ii) of the current rule; and (2) descriptions of the capabilities of the CIDI's processes and systems to collect, maintain, and produce the information, located at § 360.10(d)(22)(iii) of the current rule. The elimination of these requirements reflects that the former requires resolution-related analysis, while the latter is focused on the CIDI's capabilities and internal processes.

The proposed rule would revise the first sentence in § 360.10(d)(22)(i) of the current rule to require the CIDI to provide a mapping of the CIDI's information technology architecture, in addition to a detailed inventory and description of the key management information systems and applications. The proposed rule would clarify that the CIDI should include the core processors for deposit and loan data, in addition to systems and applications for risk management, accounting, and financial and regulatory reporting, used by or for the benefit of the CIDI and CIDI subsidiaries. The proposed rule would no longer include systems and applications used to provide the information required to be provided in the CIDI's resolution submission within this requirement.

The proposed rule also would retain the second sentence in § 360.10(d)(22)(i) of the current rule that requires the CIDI to identify for each system or application the legal owner or licensor and key personnel needed to support the system and, among other things, any related third-party contracts or service-level agreements, any related software or systems licenses, and any other related intellectual property.

The proposed rule would add a requirement that the CIDI identify the

end-of-day processing cut-off times for deposit and loan operations. Understanding institution- and product-specific processing cutoff times is critical to resolution execution because the FDIC must be able to identify when and how the movement of funds across deposit, lending, and other customer-facing products can be halted or redirected upon failure. Cut-off times also directly affect the FDIC's ability to establish the receivership perimeter, prevent unauthorized post-failure funds movement, and accurately determine insured and uninsured deposit balances. The FDIC's advance knowledge of this information supports planning for rapid or intra-day failures by ensuring transaction processing and other operational constraints are understood before a failure event.

As noted above, reflecting the close relationship between management information systems (MIS) and critical services support, the MIS requirement would be relocated to just after Critical services in the proposed rule. In meeting the requirements of the proposed rule, filers could include key MIS as a critical service and include it with the description of critical services and critical services support content as long as all required MIS content is included in the submission. Although the proposed rule does not establish benchmarks or standards for identification of "key" MIS, it identifies the core processors for deposit and loan data, and systems and applications for risk management, accounting, and financial and regulatory reporting as examples to provide context for this requirement. The goal of the requirement is to ensure that the FDIC has the information described with respect to systems and applications that it would need to access in resolution. The same information does not need to be provided twice. Clear cross-referencing of the same information is acceptable so long as it is accompanied by appropriate context.

The FDIC invites comments on all aspects of the proposed revised approach to MIS informational requirements. In particular, the FDIC seeks comment on the following aspects of the proposed rule:

(23) Do commenters believe the proposed changes to MIS informational requirements are appropriately calibrated? If not, how could the proposed rule be amended to better achieve the FDIC's policy objectives?

(24) Do commenters find the requirement to provide a mapping of the CIDI's information technology architecture to be sufficiently clear? If

not, how could the requirement be further clarified?

(25) Do commenters find the new requirement on processing cut-off times to be sufficiently clear? Would there be benefits to including more specificity, for example that this information should be provided for branches, ATMs, card processing, internet banking, remote deposit capture, and deposit sweep accounts?

Key Personnel

The paragraph of the current rule titled “Key personnel” would be revised to delete § 360.10(d)(9)(ii) of the current rule to eliminate the required description of the CIDI’s methodology for identifying key personnel and to delete § 360.10(d)(9)(iii) of the current rule to eliminate the requirements for the CIDI to provide a recommended approach for retaining key personnel during the CIDI’s resolution. The reasons for these deletions are that the former requires descriptions of the CIDI’s internal processes and methodology, while the latter requires resolution-related analysis.

Under § 360.10(d)(6)(i) of the proposed rule, CIDs would still be required to identify all key personnel by title, function, physical location, employing legal entity, with the addition of identifying whether they are dual-hatted (*i.e.*, performing roles at both the CIDI and an affiliate of the CIDI). Identification of dual-hatted key personnel is helpful to the FDIC’s preparedness because this type of status may introduce complications that need to be considered when developing retention strategies in resolution. The proposed rule would remove the requirement to identify key personnel by core business line. Further, the proposed rule would add the requirements for the CIDI to identify any CIDI-sponsored work authorizations and the associated jurisdictions that are located outside of the United States to facilitate incorporation of this information into the FDIC’s resolution planning.

The content requirements located at § 360.10(d)(9)(vi) of the current rule remain substantively unchanged in the proposed rule as § 360.10(d)(6)(ii). A CIDI would continue to be required to identify all employee benefit programs provided to key personnel, including health insurance, defined contribution and defined benefit retirement programs, and any other employee wellness programs, as well as any collective bargaining agreements or other similar arrangements. Additionally, a CIDI would continue to be required to identify the legal entity

sponsor of each employee benefit program, and provide a description of and points of contact (by title) for such programs.

Section 360.10(d)(6)(iii) of the proposed rule retains a relevant part of the content requirement from § 360.10(d)(24)(v) of the current rule to require a CIDI to identify key personnel who are responsible for the CIDI’s crisis communications and describe key communications channels that are used across key stakeholder categories.

The FDIC invites comments on all aspects of the proposed key personnel informational requirements. In particular, the FDIC seeks comment on the following aspects of the proposed rule:

(26) Do commenters view the proposed elimination of the requirement to describe the CIDI’s methodology for key personnel identification to be appropriately burden-reducing, or do they consider the context it provides to be a useful component of their submission?

(27) Do commenters view the proposed elimination of the requirement for CIDs to provide a recommended approach for retaining key personnel during the CIDI’s resolution as appropriate? Is there any additional existing information that CIDs might be able to easily provide, not tailored to a resolution context but reflecting important considerations for retention?

Material Loan Portfolios

The paragraph of the current rule titled “Material asset portfolios” would be renamed “Material loan portfolios” in the proposed rule and the concept of a material asset portfolio would be removed from the proposed rule. The proposed rule would require information on the narrower concept of material loan portfolios relative to the current rule’s focus on material asset portfolios. Similar to the current rule, the proposed rule would require a CIDI to (i) identify each material loan portfolio by size and by class within such material loan portfolio; (ii) include a breakdown of those loans within a material loan portfolio that are held by a foreign branch or subsidiary of the CIDI; and (iii) for each material loan portfolio, describe how the loans within the portfolio are valued. Requirements in the current rule related to describing how the assets within the material asset portfolio are maintained on the books and records of the CIDI, and identifying and discussing impediments to the sale of each material asset portfolio identified and providing a timeline for such sale, would be eliminated. The former generally did not yield useful

information in the full resolution submissions received from CIDs during the 2025–2026 submission cycle, and the latter requires hypothetical, resolution-related analysis by the CIDI. The definition of material loan portfolio would be added to the proposed rule and is referenced in the definition section above.

For most CIDs, the loans and lease receivables represent the largest asset class and is a significant driver of bidder interest and overall franchise value in a resolution. The proposed shift from a generalized view of asset portfolios to a more focused view of the CIDI’s lending activities supports the FDIC’s efforts to assess loan portfolio characteristics that directly influence marketing and disposition strategies, such as valuation analysis, transaction structure, bidder interest, and transferability. Additionally, the FDIC’s planning for resolution execution is supported by obtaining information from CIDs on loan portfolios that may, in the view of the CIDI, have limited bidder interest or marketability.

The FDIC invites comments on all aspects of the proposed material loan portfolio informational requirements. In particular, the FDIC seeks comment on the following aspects of the proposed rule:

(28) Do commenters find the requirements to be sufficiently clear? If not, how could they be further clarified?

(29) How do commenters view the shift from material asset portfolios to material loan portfolios?

(30) Do commenters agree with defining material loan portfolios to include loan portfolios that may, in the view of the CIDI, have limited bidder interest or marketability? Why or why not?

Off-Balance-Sheet Exposures

The paragraph of the current rule titled “Off-balance-sheet exposures” would be revised to conform with other changes to the proposed rule, including removing the requirement to map these exposures to franchise components and material asset portfolios, and remains otherwise substantively unchanged.

Qualified Financial Contracts

The paragraph of the current rule titled “Qualified financial contracts” would be revised to delete references to capabilities, to conform with other changes to the proposed rule, and to add and clarify specific content requirements. The purpose of these requirements is to provide the FDIC with information concerning QFC activities conducted within a CIDI and its subsidiaries. CIDs’ submissions

should include information sufficient to provide an understanding of QFC activities conducted within the CIDI and its subsidiaries that addresses the: (1) type of QFC activity conducted within a CIDI and its subsidiaries, and how such activity relates to its core business lines; (2) areas within a CIDI and its subsidiaries where this activity is conducted and the counterparties with which the CIDI and its subsidiaries engage in these QFC activities; (3) type of QFC activity conducted within a CIDI and its subsidiaries, and how such activity is used to manage a CIDI's hedging and liquidity management needs; and (4) infrastructure used to support these QFC activities, such as systems, reports and third-party providers.

The proposed § 360.10(d)(9)(i) would be revised to conform with other changes to the proposed rule, to delete certain content requirements, and extend content requirements to include subsidiaries of CIDs. QFCs and associated business activities are often managed together across an IDI and its subsidiaries, creating risks and costs if such activity is separated. This dynamic was demonstrated in the 2023 failures, where linkages between the QFC activity of the IDIs and their subsidiaries complicated certain decisions that the FDIC needed to make in the resolution of those IDIs. In those cases, QFC activity entered into by the IDI supported significant lending activity conducted within a subsidiary, a relationship which could not be readily identified or analyzed on closing weekend. The proposed rule would enable the FDIC to make more informed resolution decisions regarding QFCs of a CIDI and its subsidiaries, provide better information to potential acquirers to inform bids for a failed CIDI or its assets, and thereby reduce losses and increase recoveries. Further, expanding the rule to include CIDI subsidiaries aligns with the requirements of 12 CFR part 371¹² (QFC recordkeeping rule), which requires QFC recordkeeping by IDIs subject to the rule and their reportable subsidiaries.

However, the proposed rule is not duplicative of the QFC recordkeeping rule, as the proposed rule would require a high-level description of overall QFC activity of a CIDI and its subsidiaries and would not require the detailed position-level data required to be maintained by the QFC recordkeeping rule. Separately, the FDIC is considering

amendments to the QFC recordkeeping rule that would reduce the recordkeeping burden of that rule while maintaining the conceptual distinction between the type of information required under the QFC recordkeeping rule and the proposed rule. The QFC recordkeeping rule provides detailed data on QFC positions from IDIs that meet the "troubled condition" threshold as defined in QFC recordkeeping rule, whereas the proposed rule provides a more general description of the use of QFCs by CIDs.

Under the proposed rule, the CIDI would be required to identify and describe the types of QFCs the CIDI or any of its subsidiaries is a party to and how such QFCs are used in the provision of services to customers or in the management of risk, including how the CIDI and its subsidiaries offset position risks from such contracts. The CIDI would be required to describe the types of QFCs utilized by each core business line and the business purpose or risk management purpose of such QFCs. The CIDI would also be required to identify whether the CIDI or any of its subsidiaries enter into QFCs that are related to loans to customers made by any affiliate of the CIDI (other than any subsidiary of the CIDI) and, if so, the types of such QFCs.

The intention of the proposed § 360.10(d)(9)(i) is to obtain a description from the CIDI on the types of QFC activities conducted within it and its subsidiaries, and their relationship to core business lines. The statutory definition of QFC is broad and includes the following five categories of financial contracts: swap agreements, repurchase agreements, securities contracts, forward contracts, and commodity contracts.¹³ The reference to "types" in the proposed rule is meant to emphasize that QFC activities would be discussed in terms of the five categories under the statutory definition of QFCs. Content responsive to this requirement would describe activities conducted for each type of QFC, and how such activities are used either in support of core business lines (e.g., lending activity) or as a core business line (e.g., capital markets activity). Submissions would also discuss the types of counterparties with which QFCs are executed, such as dealer counterparties and end users.

The proposed § 360.10(d)(9)(ii) would be revised for clarity and to include content from CIDI subsidiaries. The content requirement would provide for a CIDI to identify the booking models used by the CIDI and each of its

subsidiaries to support the marketing and management of risk from QFCs, including whether customer-facing risk or other dealer-facing risk resides in the CIDI and CIDI subsidiaries while the position risk hedging is performed by an affiliate of the CIDI. Content responsive to this requirement would describe the type of QFC activity related to management of hedging and liquidity needs of the CIDI and its subsidiaries. This activity is distinct from activity discussed under § 360.10(d)(9)(i) of the proposed rule, which focuses on QFC activity with customers. Similar to above, the FDIC is interested in information on the types of QFC activities, which reflects that discussion of QFC activities would be in terms of the five categories under the statutory definition of QFCs. Content responsive to this requirement also would describe such activity at a core business line level, and at a macro/balance sheet level. As in the current rule, CIDs would be required to describe the CIDI's use of any "global risk book," "remote bookings," or "back-to-backs" booking model.

The proposed § 360.10(d)(9)(iii) would be revised for clarity and to include content from CIDI subsidiaries. Content responsive to this requirement would detail the areas within the CIDI and its subsidiaries where QFC activity described above is originated (e.g., business units responsible for QFC execution), the entities responsible for execution, firm policies and general practices governing the execution, and where risk from QFC activity resides within the firm and how risk from QFC activity is managed across the organization, including whether risk is managed at a transaction level or macro level.

The proposed § 360.10(d)(9)(iv) would be revised to remove references to hedges and capabilities. For each of the first three paragraphs in (d)(9), a CIDI would now be required to supplement that content by identifying systems and any third-party providers used for valuations, reporting, and any other purposes related to such QFCs. Content responsive to this requirement would describe the infrastructure used by the CIDI or any of its subsidiaries to support QFC activities discussed under proposed § 360.10(d)(9)(iv)(i) through (iii) above. Discussions would describe the systems and reporting used to manage the QFC activity above, and the use of any third-party service provided to support QFC execution and management.

The FDIC invites comments on all aspects of the proposed QFC informational requirements. In

¹² 12 CFR part 371 titled Recordkeeping Requirements for Qualified Financial Contracts requires an IDI in trouble condition (as defined in the rule) to maintain records of QFCs for the IDI and its reportable subsidiaries (as defined in the rule).

¹³ 12 U.S.C. 1821(e)(8)(D).

particular, the FDIC seeks comment on the following aspects of the proposed rule:

(31) Are the proposed requirements clear and appropriate to the goals of the proposed rule?

(32) Do commenters believe the proposed requirement regarding QFC activity conducted by subsidiaries of CIDs is appropriate? Why or why not?

(33) Is the requirement for CIDs to describe the use of any “global risk book,” “remote bookings,” or “back-to-backs” booking model sufficiently clear? If not, how could it be further clarified?

(34) Is the information proposed to be required readily available to CIDs? If not, please describe which of the required information would not be readily available to CIDs.

(35) To what extent should the proposed requirements be more aligned with other QFC requirements or expectations regarding resolution in order to reduce burden on CIDs or reduce duplicative efforts?

(36) Should the proposed requirements apply to CIDs with a minimum aggregate amount of QFC activity (including IDI subsidiaries)? Should the minimum be set as a minimum notional amount of QFC activity (e.g., \$100 billion, \$500 billion, \$1 trillion, \$25 trillion)?

Unconsolidated Balance Sheet and Material Entity Financial Statements

The paragraph of the current rule titled “Unconsolidated balance sheet; material entity and regulated subsidiary financial statements” would be renamed “Unconsolidated balance sheet and material entity financial statements” in the proposed rule. The requirement would be revised to conform with other changes to the proposed rule, namely, to remove the term “regulated subsidiary” from the content requirement, and the content would otherwise remain substantively unchanged.

Composition of Non-Deposit Liabilities and Funding Sources

The paragraph of the current rule titled “Capital structure; funding sources” would be renamed “Composition of non-deposit liabilities and funding sources” in the proposed rule. The content requirements located at § 360.10(d)(17)(i) of the current rule would be deleted in the proposed rule. The proposed rule would remove the requirements for the CIDI to provide descriptions of the current processes used by the CIDI to identify the funding, liquidity, and capital needs of and resources available to each material entity that is a CIDI subsidiary or foreign branch and of the current capabilities of

the CIDI to project and report its funding and liquidity needs.

Section 360.10(d)(17)(ii) of the current rule would be revised to clarify that it would be limited to non-deposit liabilities, consistent with the fact that both the current rule and proposed rule feature a separate set of informational requirements related to deposits. The proposed § 360.10(d)(11)(i) would require CIDs to identify the composition of the non-deposit liabilities of the CIDI including the types and amounts of short-term and long-term liabilities by type and term to maturity, secured and unsecured liabilities, and subordinated liabilities. Such information must include whether such liabilities are held by affiliates, whether they are publicly issued, their maturity, any call rights provided, and, where applicable, the identity of their indenture trustees.

In order to further streamline the current rule, the paragraph of the current rule titled “Parent and parent company affiliate funding, transactions, accounts, exposures and concentrations” would be deleted and certain of its content would be revised and incorporated into the proposed rule’s “Composition of non-deposit liabilities and funding sources” paragraph.

The proposed rule would generally combine the requirements contained in § 360.10(d)(17)(iii) and § 360.10(d)(18)(i) of the current rule into the proposed § 360.10(d)(11)(ii). The proposed rule would require CIDs to identify material affiliate funding relationships, and material inter-affiliate exposures, including amount, terms, purpose, and date of maturity, that the CIDI or any CIDI subsidiary has with any affiliate, and that the CIDI has with any CIDI subsidiary or foreign branch that is a material entity. Such information must include material affiliate financial exposures, claims or liens, lending or borrowing lines and relationships, guaranties, deposits, and derivatives transactions.

The proposed § 360.10(d)(11)(iii) retains and revises certain elements of § 360.10(d)(18)(ii) of the current rule. Certain aspects are deleted to simplify requirements and facilitate consolidation with § 360.10(d)(17)(iii) and § 360.10(d)(18)(i) of the current rule, specifically the nature and extent to which any affiliate serves as a source of funding to the CIDI and CIDI subsidiaries. Other aspects that have not proven informative in the 2025–2026 submission cycle under the current rule are deleted, specifically, mechanisms by which funds are transferred from the

CIDI’s affiliates to the CIDI and CIDI subsidiaries.

Digital Services and Products

The paragraph of the current rule titled “Digital services and electronic platforms” would be renamed “Digital services and products” and the content refined to focus on the information related to a bank’s technology-enabled services that must be considered in the FDIC’s resolution strategies. The FDIC recognizes that IDIs increasingly rely on technology to enhance customer experience by delivering banking products and services through technology-enabled platforms, applications, third-party partnerships, and innovative business models. These developments include arrangements with financial technology (fintech) companies and other embedded financial solutions, reflecting evolving channels through which customers access banking services and banks maintain relationships. Institutions offer these products and services to meet evolving customer expectations, enhance customer experience, and maintain a competitive position in the marketplace. As a result, they may represent important components of an institution’s franchise value by supporting customer acquisition, retention, and engagement.

The channels through which digital products and services are offered may not be readily distinguishable through the current rule’s existing information technology or critical services descriptions. Advance awareness of an institution’s digital products and services supports the FDIC’s efforts to maximize the likelihood of a rapid sale, since understanding their impact to franchise value and related system requirements is critical for potential acquirers to evaluate whether they can rapidly assume and continue these services through transfer, replication, or support through alternative systems. Additionally, certain digital products and services, including tokenized deposits and bank-sponsored deposit or fintech platforms, may be provided through specialized transaction processing procedures, settlement mechanisms, and non-traditional ledgering arrangements. These transfer capabilities must be understood to accurately establish the receivership perimeter and support timely deposit insurance determination. Such information may also support the FDIC’s ability to continue critical customer-facing services while evaluating and executing resolution strategies.

The content revision would narrow the focus on specific technology-

enabled services and arrangements that shape facets of retail and business customer relationships. The proposed § 360.10(d)(12)(i) provides additional specificity and narrows the requirements of § 360(d)(23)(i) of the current rule. Rather than describe all digital services and electronic platforms offered to customers to support banking transactions for retail or business customers, a CIDI would be required to briefly describe any novel or emerging digital services and products currently offered to retail or business customers through online, mobile, or other digital channels, including digital wallets and other embedded arrangements. These digital services and products may be offered directly by the institution through proprietary or licensed platforms and systems or facilitated through fintech or other third-party arrangements.

The proposed § 360.10(d)(12)(ii) substantively retains the first sentence of § 360.10(d)(23)(ii) of the current rule, requiring a CIDI to identify whether the services or products are provided by the CIDI, the CIDI's affiliate, or a third party, and which of them owns the related intellectual property or is the licensee. The proposed rule would require a CIDI to provide additional information regarding a third party, namely the entity and its role in the arrangement.

The proposed § 360.10(d)(12)(iii) is added to the proposed rule and requires a CIDI to identify the system on which the CIDI retains customer records, for each digital service and product. Section 360(d)(23)(iii) of the current rule is deleted from the proposed rule, so that a CIDI would not have to discuss how digital services or platforms are significant to the operations or customer relationships of the CIDI, and their impact on franchise value and depositor behavior.

The FDIC invites comments on all aspects of the digital services and products informational requirements. In particular, the FDIC seeks comment on the following aspects of the proposed rule:

(37) Do commenters find the proposed content requirement to be clear? If not, how could it be further clarified?

(38) Do commenters believe the proposed changes to digital services and products informational requirements are appropriately calibrated? If not, how could the proposed rule be amended to achieve the FDIC's policy objectives?

Taking into account the full set of proposed resolution submission informational requirements, the FDIC invites comment on all aspects of these proposed informational requirements. In particular, the FDIC seeks comment

on the following aspects of the proposed rule:

(39) Are the proposed submission requirements clear and appropriate to the goals of the proposed rule?

(40) Do commenters anticipate any potential overlap between the informational requirements in the proposed rule (to include, for example, those related to MIS, digital services and products, key personnel, organizational structure, deposit activities, loan portfolio, and unconsolidated balance sheet and material entity financial statements) and the separately proposed Assessments proposal, which envisions voluntary provision of certain information through a VDR testing exercise or the prescribed data access by participating large or highly complex institutions? If so, should the requirements of the proposed rule be amended for those institutions that voluntarily provide the information described in the Assessments proposal? If so, how should the requirements or other aspects of the proposed rule be amended?

E. Other Content

The section of the current rule titled "Interim supplement" would be deleted and CIDs would no longer be required to file interim supplements under the proposed rule. As discussed above, the notice of extraordinary event requirement would be revised such that CIDs would be required to report material changes associated with any extraordinary event within a defined timeframe, in the period between submissions. This more targeted approach to the FDIC receiving timely and updated information relevant for its resolution planning from CIDs would obviate the need for the one-size-fits-all approach of interim supplement submissions.

The section of the current rule titled "Credibility; review of full resolution submissions; engagement; capabilities testing," located at § 360.10(f) would be deleted and replaced in the proposed rule with two stand-alone sections—"Review of resolution submissions" and "Engagement." The section on "Review of resolution submissions" would require the FDIC to review the resolution submission to determine whether it meets the applicable requirements of the proposed rule in all material respects. The section on "Engagement" would provide for the FDIC to engage with the CIDI to ask clarifying questions about the resolution submission during the review process. Engagement would no longer be a defined term under the proposed rule and would no longer be a feature under

the proposed rule in the manner in which it is set forth in the current rule.

The proposed shift in the focus of submissions to operational information and away from requirements to provide resolution-related hypothetical strategies, analyses, and other content means that the FDIC would not require extensive and structured direct engagement with the staff at a CIDI, as envisioned under the current rule. The FDIC's engagement with the staff at a CIDI under this proposed rule would focus on addressing specific questions related to the information contained or required to be contained in their submission.

The FDIC anticipates that a simpler approach to feedback could be adopted compared to the current rule, considering that, as proposed, future submissions would be expected to be significantly shorter, more streamlined, and focused on operational information. The FDIC would expect to communicate timely feedback to CIDs on the submissions and would identify aspects of the submission that do not meet requirements in all material respects.

The FDIC invites comments on all aspects of the proposed resolution submission review and engagement processes. In particular, the FDIC seeks comment on the following aspects of the proposed rule:

(41) Do commenters believe the proposed scope of the engagement process is appropriate? For CIDs that participated in engagement under the current rule or the 2012 rule, did they find such engagement useful? If so, were there aspects of this process that could have been made more efficient or effective?

(42) Do commenters consider the proposed approach to feedback to be clear and appropriate? If not, how could the approach be amended?

The paragraph of the current rule titled "No limiting effect on FDIC" would be revised to conform with other changes to the proposed rule and remains otherwise substantively unchanged.

The first sentence in "Financial information" located at § 360.10(g)(1) in the current rule would be revised for clarity and to conform with other changes to the proposed rule. The proposed rule divides that first sentence into two sentences and requires the resolution submission, "to the greatest extent possible," to use financial information as of the most recent fiscal year-end for which the CIDI has financial statements.

The proposed rule would add an exception to the existing requirement. CIDs would be able to use financial

information as of the quarter immediately preceding year-end if the resolution submission is due on or before a date that is less than six months after the end of the most recent fiscal year-end. In the event a CIDI is required to file a resolution submission in the first half of a calendar year and the year-end financial information is not yet available, the proposed rule provides flexibility for a CIDI to utilize financial information as of the previous quarter, if necessary.

The paragraph of the current rule titled “Indexing of information and analysis to full resolution submission and interim supplement content requirements” would be renamed “Indexing of information to resolution submission content requirements.” It would be revised to conform with other changes to the proposed rule. To the extent that certain elements of content requirements under the proposed rule do not apply to a CIDI because of its structure, organization, business strategy, or other factors, the CIDI should clearly indicate in its submission that those content elements do not apply and should provide the reason why they do not apply. For example, a CIDI with no operations outside the United States would not be required to provide any information other than the confirmation that there are no such activities with respect to that requirement. The requirement has been revised to make clear that, to the extent any content requirement is not applicable to a CIDI, the CIDI must note such inapplicability and briefly describe the reason.

The paragraph of the current rule titled “Combined full resolution submission or interim supplements by affiliated CIDs” would be renamed “Combined resolution submission by affiliated CIDs” and revised to conform with other changes to the proposed rule and remains otherwise substantively unchanged.

The paragraph of the current rule titled “Form of full resolution submission; confidential treatment of full resolution submissions and interim supplements” would be renamed “Confidential treatment of resolution submissions.” The requirement for a CIDI to submit a public section of its submission, located at § 360.10(h)(1) of the current rule, would be removed from the proposed rule, reflecting the shift away from CIDI-generated analyses and strategy to operational information relevant for FDIC resolution preparedness. The remaining portions of the section have been revised to conform with other changes to the proposed rule.

The paragraph of the current rule titled “Extensions and exemptions,” located at § 360.10(i) of the current rule, is unchanged in the proposed rule.

The paragraph of the current rule titled “Enforcement” located at § 360.10(j) of the current rule would be deleted from the proposed rule.

The FDIC invites comment on all aspects of these sections of the proposed rule. In particular, the FDIC seeks comment on the following aspects of the proposed rule:

(43) Do commenters find the exception provided for the use of financial information in the submission to be clear and appropriate? If not, how could these expectations be further clarified or adjusted?

(44) Do commenters agree that the changing nature of the resolution submission, with a narrow focus of operational information relevant for the FDIC’s resolution preparedness rather than strategy and analyses, makes a public section no longer appropriate or relevant? If not, what would be the utility and appropriate scope of a public section?

III. Expected Effects

A. Introduction and Baseline Assumptions

As discussed above, the proposed rule would standardize content and filing frequency requirements for all IDIs with \$100 billion or more in total assets and reduce requirements regarding the content of resolution submissions provided to the FDIC. The FDIC estimates the impact of these proposed changes by estimating the effects under the proposed rule relative to a baseline in which the proposed rule is not adopted and the current rule is in effect.

For its estimates under both the proposed rule and the baseline, the FDIC is utilizing all other relevant laws and regulations in effect, as well as the financial and economic conditions of IDIs, as of March 31, 2026, with one exception: the analysis assumes that, under the proposed rule, the related Assessments proposal would also be finalized. Given the anticipated simultaneous adoption of both proposals and the mitigating effect that the Assessment proposal would have on resolution outcomes, this assumption allows the discussion below to focus on the expected effects under the outcome the FDIC considers most likely.

The FDIC analyzes the effects of the proposed rule, relative to the baseline, over a 12-year period to fully account for the differences in the expected populations of filers and the submission frequencies between biennial filers and

triennial filers under the current rule.¹⁴ The 12-year analysis horizon is sufficiently long to capture substantially all of the expected effects of the proposed rule, while avoiding potential uncertainties related to future economic conditions that may arise with longer time horizons.

Although not all the effects of the proposed rule can be quantified, the analysis provides monetary estimates of the cost savings associated with Paperwork Reduction Act (PRA) burden that is imposed by the proposed rule. Given that most of the requirements in 12 CFR 360.10 are related to reporting requirements, PRA burden estimates represent a reasonable basis for quantifying the effects of the proposed rule.

The FDIC recognizes that there may be substantial variation in resolution submissions and related PRA burden across CIDs. To account for this variation, this analysis assumes that the PRA burdens for each type of submission under the baseline and the proposed rule would vary with a CIDI’s assets at a constant ratio of “labor hours per billion in assets” (hours PBA).¹⁵ This measure allows the analysis to account for the fact that larger CIDs are expected to incur more labor hours than smaller CIDs to comply with the same regulation.

The FDIC uses its most recently developed PRA time burdens to estimate that, under the baseline, a group A CIDI that is an affiliate of a U.S. GSIB, a group A CIDI that is not an affiliate of a U.S. GSIB, and a group B CIDI would incur 72, 73, and 67 hours PBA, respectively, to prepare a full resolution submission.¹⁶ Additionally, the FDIC estimates that, under the baseline, a first-time filer would incur approximately 7,200 hours associated with filing its first full resolution submission. Further, the FDIC estimates that, under the baseline, all triennial filers would incur 24 hours PBA associated with filing interim supplements. Finally, the FDIC estimates that all filers would incur an average compensation rate of \$118 per hour of burden under both the baseline and the proposed rule.¹⁷

¹⁴ A 12-year analysis horizon encompasses multiple full cycles for both biennial filers and triennial filers.

¹⁵ For purposes of estimated PRA burdens, the FDIC uses assets as reported on each institution’s Call Report, as of March 31, 2026.

¹⁶ A full resolution submission is defined as a resolution plan for group A CIDs and an informational filing for group B CIDs, located at 12 CFR 360.10(b) of the current rule.

¹⁷ These estimates are based on the FDIC’s latest PRA estimates for 12 CFR 360.10, which was last approved on August 26, 2024, and expires on

Given the uncertainties involved in forecasting total assets of IDIs across a 12-year analysis horizon, this analysis assumes that the total assets reported by existing CIDs, as of the quarter ending March 31, 2026, would remain constant throughout this period. In addition, any new CIDs are assumed to have total assets equal to \$50 billion for group B CIDs and \$100 billion for group A CIDs under the baseline and \$100 billion under the proposed rule and maintain those asset levels throughout the 12-year period. To the extent that this assumption is violated and total assets grow, the estimates of burden under the baseline would be larger than estimated, and the resulting cost savings would be higher than estimated. As such, this constant-asset assumption provides a conservative estimate of the cost savings provided by the proposed rule.

B. Scope

Based on data through March 31, 2026, there are 48 CIDs subject to the requirements of the current rule. Of these, 32 CIDs—with approximately \$18.9 trillion in total assets—are group A CIDs under the current rule, and 16 CIDs—with approximately \$1.2 trillion in total assets—are group B CIDs. Of the 32 group A CIDs, nine are affiliates of U.S. GSIBs. The nine CIDs that are affiliates of U.S. GSIBs are biennial filers under the current rule while the remaining 39 CIDs are triennial filers.¹⁸

Under the baseline, all 48 CIDs currently subject to the current rule would remain subject to 12 CFR 360.10 for the entire 12-year period. In addition, the FDIC estimates that three additional IDIs would become group B CIDs and one existing group B CIDI would become a group A CIDI each year under the baseline.¹⁹

Under the proposed rule, the dollar threshold for an IDI to be required to file

a resolution submission would be \$100 billion, as compared to \$50 billion under the baseline. At this level, 16 of the 48 CIDs subject to the current rule (all group B CIDs under the baseline) would no longer be CIDs subject to the requirements of the proposed rule. As of March 31, 2026, these 16 IDIs hold approximately \$1.2 trillion in total assets.

Under the proposed rule, the increase in the threshold, along with the indexing of the threshold, would slow the rate that new IDIs become CIDs. The FDIC estimates that the inflation indexing in the proposed rule would result in only one new CIDI each year over the period of analysis. For purposes of this analysis, the FDIC assumes that there is no attrition from the set of returning CIDs each year.

The estimated populations of CIDs under the baseline and under the proposed rule over the 12-year cycle are summarized in Table 1:

TABLE 1—ESTIMATED POPULATION OF CIDs OVER 12 YEARS

	Baseline			Proposed rule
	Group A	Group B	Total	CIDs
Year 1	33	18	51	33
Year 2	34	20	54	34
Year 11	43	38	81	43
Year 12	44	40	84	44

Based on Consolidated Reports of Condition and Income data as of March 31, 2026, and FDIC calculations based on current counts of 32 group A CIDs and 16 group B CIDs, estimated counts of three new group B CIDs and one group B CIDI that becomes a group A CIDI each year under the baseline, and estimated counts of one new CIDI each year under the proposed rule.

Using the methodology described above, the FDIC estimates that total average annual PRA costs under the baseline would be approximately \$95.2 million for all affected IDIs,²⁰ which include: (1) IDIs that are CIDs under the current rule and would remain CIDs under the proposed rule; (2) IDIs that are CIDs under the current rule but would not be CIDs under the proposed rule; and (3) IDIs that would, over the 12-year horizon, become CIDs under the current rule, but would not become CIDs under the proposed rule.

C. Benefits

The proposed rule would result in substantial compliance cost savings.

Changes in Quantified Compliance Costs

For purposes of the analysis, the FDIC separates the discussion of the quantifiable PRA compliance cost effects of the proposed rule into four broad categories, each based on a proposed change or a set of proposed changes. These categories are as follows:

1. Increasing the dollar threshold from \$50 billion to \$100 billion and periodically adjusting the threshold for inflation.
2. Removal of the interim supplement requirement of the current rule.
3. Reducing the filing frequency for CIDs that are affiliates of U.S. GSIBs from biennial to triennial.

4. Changes to submission content, as well as removing the distinction between group A CIDs and group B CIDs.

The individual components of these changes are discussed below.

Increase in the Threshold

The proposed rule would increase the dollar threshold for an IDI to be a CIDI to \$100 billion and adjust automatically and triennially based on the percentage change in the non-seasonally adjusted CPI-W. As noted above, these changes would reduce the population of CIDs subject to the filing requirements of 12 CFR 360.10. Specifically, the increase in threshold from \$50 billion to \$100 billion would eliminate 16 current

August 31, 2027. See https://www.reginfo.gov/public/do/PRAICList?ref_nbr=202405-3064-002.

¹⁸ Consolidated Reports of Condition and Income data as of June 30, 2025, through March 31, 2026.

¹⁹ To inform these estimates, the FDIC examined the asset growth of IDIs, as reported on Consolidated Reports of Condition and Income, at the \$50 billion and \$100 billion thresholds in the current rule. In the six-year period ending March 31, 2026, an average of 2.5 IDIs breached \$50 billion each year, and an average of one IDI breached \$100

billion each year. Similar per-year averages are obtained when examining longer periods.

²⁰ \$95.2 million = 807,000 hours annually * \$118 per hour. Full filings: (GSIBs: \$12.7 trillion * 72 hours PBA * six sets of filings over 12 years) + (group A CIDs that are triennial filers: \$7 trillion in average assets over 12 years, including new group A CIDs * 73 hours PBA * four sets of filings over 12 years) + (group B CIDs: \$1.1 trillion in average assets over 12 years, including new group B CIDs * 67 hours PBA * four sets of filings) +

(First-time filers: 7,200 hours * 36 total first-time filings). Interim supplements (group A CIDs that are triennial filers: \$7 trillion in average assets over 12 years, including new group A CIDs * 24 hours PBA * eight sets of filings over 12 years) + (group B CIDs: \$1.1 trillion in average assets over 12 years, including new group B CIDs * 24 hours PBA * eight sets of filings over 12 years) + (First-time filers: \$50 billion in assets per first-time filer * 24 hours PBA * 36 total filings over 12 years).

CIDIs, with approximately \$1.2 trillion in total assets, from the filing requirements of the proposed rule, relative to the baseline. Based on the assets for these 16 CIDIs, the latest PRA burden estimate of 67 hours PBA,²¹ and an estimated wage of \$118 per hour, the FDIC estimates that these 16 CIDIs each would save an average of approximately \$593,000 per informational filing if they are not a CIDI under the proposed rule, relative to the baseline.²² Similarly, at a burden of 24 hours PBA, these CIDIs would save approximately \$212,000 per interim supplement required under the current rule.²³

Given that these CIDIs would submit one informational filing and two interim supplements every three years under the baseline, the elimination of these filings under the proposed rule would result in average annual cost savings of \$339,000²⁴ per year for each of these 16 CIDIs, on average.

Further, as discussed above, the proposed rule would reduce the number of first-time filers each year by two, for a total reduction of 24 CIDIs over the 12-year period of analysis, relative to the baseline. Given the estimated burden of a first time filing of 7,200 hours under the baseline and the estimated wage of \$118, the elimination of two first-time submissions each year under the proposed rule would provide annual cost savings of approximately \$1.7 million, relative to the baseline.²⁵

The reduction of 24 CIDIs over twelve years under the proposed rule would eliminate a total of 36 group B CIDI informational filings after their first filing, and 96 interim supplements, relative to the baseline.²⁶ Given the

constant asset assumption, the elimination of these submissions for the 24 CIDIs would result in average annual cost savings of approximately \$2.3 million per year, or approximately \$96,000 per year on average, for these 24 IDIs.²⁷

The increase in the threshold, along with the indexing of the threshold, is expected to result in average annual cost savings of \$9.4 million per year for IDIs affected by this change in the proposed rule.²⁸

Removal of the Interim Supplement

The proposed rule would remove the requirement in the current rule for all triennial filers to submit interim supplements in each year they do not file a full resolution submission. This removal would reduce burden for those CIDIs under the proposed rule that would file an interim supplement under the baseline. As noted above, there are currently 39 CIDIs categorized as triennial filers, as of March 31, 2026. Also as noted above, 16 of these triennial filers would be eliminated from all filing requirements under 12 CFR 360.10, based on the proposed change in the threshold from \$50 to \$100 billion, leaving 23 remaining triennial filers.

These 23 triennial filers under the proposed rule would accrue incremental benefits from the removal of the interim supplement. This analysis uses the 23 remaining triennial filers' estimated assets of \$6.23 trillion, as of March 31, 2026, the latest PRA burden estimate of 24 hours PBA, and an estimated wage rate of \$118 to estimate average cost savings of \$767,000 per interim supplement that would not be required under the proposed rule relative to the baseline.²⁹ Given that these 23 CIDIs would each submit two interim supplements every three years under the baseline, the average annual cost savings for these CIDIs would be approximately \$11.8 million per year.³⁰

²⁷ \$2.3 million per year = 36 informational filings * \$50 billion in assets per informational filing * 67 hours PBA * \$118 per hour/12 years + 96 interim supplements * \$50 billion in assets per interim supplement * 24 hours PBA * \$118 per hour/12 years. \$2.3 million per year/24 IDIs = \$96,000 per year per IDI.

²⁸ \$339,000 in savings per IDI * 16 scoped-out IDIs = \$5.4 million in savings across all scoped-out IDIs per year. \$5.4 million + \$1.7 million in savings from first-time filings per year + \$2.3 million savings from full resolution submissions and interim supplements for new filers per year = \$9.4 million annually.

²⁹ \$767,000 = \$6.23 trillion in total assets * 24 hours PBA * \$118 per hour/23 CIDIs.

³⁰ \$11.8 million per year = \$767,000 per interim supplement * 23 CIDIs * two interim supplements per CIDI in each triennial cycle/three years per triennial cycle.

The proposed removal of the interim supplement requirement would also benefit IDIs that become CIDIs under the proposed rule. Based on the assumptions described above, the FDIC estimates that new CIDIs would save an average of \$283,000 per interim supplement that would not be required under the proposed rule relative to the baseline.³¹ Given one new CIDI in each year of the analysis, the proposed rule would result in 48 fewer interim supplement filings over 12 years, relative to the baseline, for these CIDIs. This reduction would result in average annual cost savings of \$1.1 million.³²

The proposed rule's removal of the interim supplement requirement would result in estimated average annual cost savings of \$12.9 million per year for IDIs affected by this change in the proposed rule.

Reduction in Filing Frequency for CIDIs That Are Affiliated With U.S. GSIBs

The proposed rule would adjust the filing frequency for CIDIs that are affiliated with U.S. GSIBs from once every two years to once every three years. This change in filing frequency would reduce burden for the nine CIDIs that are affiliated with U.S. GSIBs. Relative to the number of filings under the baseline, these nine CIDIs would each file two fewer filings under over a twelve-year period under the proposed rule.

As of March 31, 2026, these nine CIDIs report \$12.7 trillion in assets, or \$1.4 trillion on average per CIDI. Based on the estimate of 72 hours PBA under the baseline,³³ these nine CIDIs save, on average, approximately \$12 million per filing.³⁴ The reduction of two resolution submissions over twelve years, relative to the baseline, would result in an average annual reduction of approximately \$2 million per CIDI, or \$18 million for all nine CIDIs that are affiliated with U.S. GSIBs.³⁵

Changes in Content

The proposed rule would remove the distinction between group A CIDIs and group B CIDIs and amend various content requirements throughout 12

³¹ \$283,000 = \$100 billion in total assets * 24 hours PBA * \$118 per hour.

³² \$1.1 million = \$283,000 per interim supplement * 48 interim supplements/12 years.

³³ Based on the FDIC's latest Paperwork Reduction Act Information Collection Request OMB No. 3064-0185. See https://www.reginfo.gov/public/do/PRAICList?ref_nbr=202405-3064-002.

³⁴ \$12 million per submission = \$12.7 trillion in total assets * 72 hours PBA * \$118 per hour/nine CIDIs.

³⁵ \$18 million = \$12 million per submission * two submissions per biennial filer * nine biennial filers/12 years.

²¹ These CIDIs would be expected to be group B CIDIs under the baseline.

²² \$593,000 = \$1.2 trillion total assets for the 16 scoped-out IDIs * 67 hours PBA * \$118 per hour/16 scoped-out IDIs.

²³ \$212,000 = \$1.2 trillion total assets for the 16 scoped-out IDIs * 24 hours PBA * \$118 per hour/16 scoped-out IDIs.

²⁴ Average annual cost of one informational filing and two interim supplements in a three-year period: \$339,000 = \$593,000 per informational filing + (\$212,000 per interim supplement * 2 interim supplements)/3 years.

²⁵ \$1.7 million per year = two submissions per year * 7,200 hours per submission * \$118 per hour.

²⁶ Under the baseline, each eliminated CIDI would have had to submit a resolution plan in each triennial cycle following their entry. As such, the six CIDIs that would have entered in the first, second, or third triennial cycle of the baseline would have had to file three, two, or one more informational filings, respectively, for a total of 36 submissions. Further, these filers would submit 1 interim supplement in each year of the baseline after the year in which they file for the first time, but not in years in which they submit informational filings. This totals 2 * 8 + 2 * 7 + 2 * 6 + 2 * 6 + 2 * 5 + 2 * 4 + 2 * 4 + 2 * 3 + 2 * 2 + 2 * 2 + 2 * 1 + 2 * 0 = 96 interim supplements over 12 years.

CFR 360.10. These changes would provide incremental cost savings to the 32 group A CIDs (of which nine are affiliated with U.S. GSIBs) and 12 first-time filers that the FDIC estimates would file resolution submissions under the proposed rule.

The FDIC estimates that the total PRA burden for preparing and filing a resolution submission under the proposed rule would be 36 hours PBA for all filers and 4,078 hours for a first-time filing. For CIDs affiliated with U.S. GSIBs, group A CIDs that are not affiliates of U.S. GSIBs and first-time filers, this represents a decrease of 36 hours PBA (50 percent), 37 hours PBA (51 percent), and 3,122 hours (43 percent), respectively, relative to the baseline.

For the nine CIDs that are affiliated with U.S. GSIBs that would file once every three years under the proposed rule, the proposed reduction in content would result in an average annual collective cost savings of \$18 million.³⁶

This cost savings would be in addition to the \$18 million saved by the proposed change in filing frequency, as discussed above.

For the 23 CIDs that were group A CIDs under the baseline, that will file once every three years under the proposed rule, the proposed reduction in content would result in an average annual collective cost savings of \$9 million.³⁷

In addition, the analysis estimates that one group B CIDI per year would become a group A CIDI under the baseline. Given that group A CIDs incur six more hours PBA per submission than group B CIDs, the proposed standardization of the two submission types would result in an additional \$71,000 in cost savings per submission and average annual collective cost savings of \$178,000.³⁸

This analysis estimates that the population of CIDs increases by one CIDI each year under the proposed rule. The reduction in content would reduce the costs of first-time filings each year

by \$368,000.³⁹ In addition, these new CIDs would file submissions every three years after their first-time filing. At an assumed asset size of \$100 billion, these CIDs would also save \$366,000 per non-first-time submission.⁴⁰ Given an estimated 12 new CIDs in the period of analysis, there would be an estimated 18 total submissions (not including first-time filings) across 12 years, resulting in average annual collective cost savings of \$549,000.⁴¹

In summary, the proposed rule's reduction in content requirements would result in average annual cost savings of \$27.7 million per year for IDIs affected by this change in the proposed rule.

Summary of Quantified Cost Savings

Taken together, the effects of the proposed rule above would result in an aggregate cost reduction of approximately \$68 million across all affected IDIs when averaged over the 12-year period of analysis.

TABLE 2—SUMMARY OF COST SAVINGS

	Average annual cost savings (million)
Increase in the threshold	\$9.4
Removal of the interim supplement	12.9
Reduction in filing frequency for CIDs that are affiliated with U.S. GSIBs	17.8
Changes in content	27.7
Total cost savings	67.8

Source: FDIC

Note: Average annual cost savings are estimated PRA compliance cost savings per year for the twelve years following the effective date of the proposed rule, relative to an estimated baseline cost of \$95.2 million per year.

Other Benefits to CIDs

Static nominal thresholds without periodic adjustments to reflect inflation do not preserve threshold levels in real terms. As is described in the preamble, raising the dollar threshold that determines whether an IDI is a CIDI to \$100 billion would better align the proposed rule with the intended scope of application for IDIs under the current rule.

D. Costs

The proposed rule would impose no direct costs on affected IDIs relative to the baseline; it would reduce the requirements imposed by the current rule and result in direct cost savings to all affected IDIs.

Regulators may be less prepared to resolve a failed IDI with total assets between \$50 billion and \$100 billion that would be covered under the current rule, but not under the proposed rule, as the FDIC would not have updated information for these IDIs moving forward. However, the FDIC expects that many of these institutions would elect to qualify for the RRA in the separately proposed Assessments proposal, which would significantly improve resolution outcomes. In addition, the FDIC has other tools to promote resolution preparedness for midsize banks.

Because the proposed rule would remove the interim supplement requirement for current triennial filers and decrease the frequency of submissions for current biennial filers to

a triennial cycle, information submitted under the proposed rule may not be up to date at the time of failure. However, the FDIC would still be provided with information that reflects the specific circumstances of each CIDI and is most relevant for the FDIC to rapidly execute a resolution in the event of a failure. A CIDI that elects to participate in the separately proposed RRA would be subject to periodic testing which would give the FDIC confidence in the CIDI's ability to populate a VDR with information that could be used to market the CIDI in the event of its failure. Additionally, a successfully executed data access portion of the RRA would enable the FDIC to directly access data from service provider(s) and/or the CIDI's internal systems,

³⁶ \$18 million = 36 hours in savings per submission * \$12.7 trillion in assets * \$118 per hour/three years per submission.

³⁷ \$9 million = 37 hours in savings per submission * \$6.2 trillion in assets * \$118 per hour/three years per submission.

³⁸ \$71,000 = six hours PBA savings per submission * \$118 per hour * \$100 billion in assets. \$178,000 = \$71,000 in savings per submissions * 30 submissions/12 years.

³⁹ \$368,000 = 3,122 hours in hourly burden savings * \$118 per hour.

⁴⁰ \$366,000 = 31 hours PBA savings per submission * \$100 billion in assets * \$118 per hour.

⁴¹ \$549,000 = \$366,000 savings per submission * 18 submissions/12 years.

allowing the FDIC to obtain detailed bank data needed to manage and market the bank in receivership.

E. Summary

Based on the analysis described above, the FDIC has determined that the expected benefits of the proposed rule justify its expected costs. The FDIC invites comments on all aspects of the supporting information provided in this analysis, and, in particular, whether the proposed rule would have any material effects that the FDIC has not identified.

IV. Alternatives Considered

The FDIC considered alternatives to the proposed rule to meet the objectives of this rulemaking. For the reasons described below, the FDIC views the proposed rule as the most appropriate and effective means of achieving the policy objectives described in Section II.A.

The FDIC considered not promulgating any regulatory action to amend 12 CFR 360.10. However, as previously discussed, the FDIC has determined that the amendments in the proposed rule would provide substantial regulatory relief to CIDs while maintaining the FDIC's ability to undertake an efficient and effective resolution should a CID fail. As discussed above, the proposed rule would provide clear cost savings and other benefits relative to this no-action alternative.

Additionally, the FDIC considered a range of alternatives relating to filing frequency and content requirements. The FDIC considered maintaining the current rule's biennial filing cycle for CIDs that are affiliated with U.S. GSIBs. This frequency was originally intended to allow these CIDs to file resolution plans under the current rule and Title I resolution plans in alternate years. However, the FDIC generally concluded that a triennial cycle is appropriate for all CIDs. Thus, the FDIC is proposing to align all CID submissions on a triennial frequency.

The FDIC has determined that the proposed rule strikes an appropriate balance by maintaining the content elements that are most relevant to each CID's specific circumstances and, that most directly supports the FDIC's preparedness to execute a resolution in the event of failure.

The FDIC invites comments on all possible alternatives to the proposed rule and will revisit all of its preliminary determinations in the proposal after review of comments.

V. Regulatory Analysis

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.⁴² However, an initial regulatory flexibility analysis is not required if the agency certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. As detailed in the following statement of factual basis, the FDIC certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

The Small Business Administration (SBA) has defined "small entities" to include banking organizations with assets of less than or equal to \$850 million.⁴³ Generally, the FDIC considers a significant economic impact to be a quantified effect in excess of five percent of total annual salaries and benefits or 2.5 percent of total non-interest expenses of the regulated small entity.

As of March 31, 2026, the most recent period for which small entity data are available, the FDIC insures 4,287 depository institutions, of which 2,954 are small entities. The proposed rule would amend resolution plan requirements for insured depository institutions with over \$50 billion in total assets, "as determined based upon the average of the institution's four most recent Consolidated Reports of Condition and Income."⁴⁴ Given the disparity between the CID threshold amount and the upper limit for the asset size of small entities, no institution affected by the proposed rule would be a small entity for purposes of RFA.

Based on this statement of factual basis, the FDIC certifies that the proposed rule will not, if promulgated, have a significant economic impact on

⁴² 5 U.S.C. 601 *et seq.*

⁴³ The SBA defines a small banking organization as having \$850 million or less in assets, where an organization's "assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year." See 13 CFR 121.201 (as amended by 87 FR 69118, effective December 19, 2022). In its determination, the "SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates." See 13 CFR 121.103. Following these regulations, the FDIC uses an insured depository institution's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the insured depository institution is "small" for the purposes of RFA.

⁴⁴ 12 CFR 360.10(b).

a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis is not required.⁴⁵

The FDIC invites comments on all aspects of the supporting information provided in this RFA section.

B. Paperwork Reduction Act

Certain provisions of the proposed rule contain "collections of information" within the meaning of the Paperwork Reduction Act of 1995 (PRA).⁴⁶ In accordance with the requirements of the PRA, the FDIC may not conduct or sponsor, and a 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 proposed rule contains revisions to current information collections subject to the PRA. To implement these requirements, the FDIC would rename, revise, and extend for three years the collection currently titled "Resolution Plans Required for Insured Depository Institutions With \$50 Billion or More in Total Assets."

Information Collection

Title: Resolution Plans Required for Covered Insured Depository Institutions. *OMB Control No.:* 3064-0185.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Description: The FDIC is proposing changes to update and automate the scope of the rule and recalibrate resolution submissions to focus on the information that most directly supports the FDIC's preparedness to execute a resolution. As part of these proposed changes, the FDIC is proposing to update the threshold determining whether an IDI is subject to the rule from \$50 billion to \$100 billion. This change will necessitate a change to the title of the information collection from, "Resolution Plans Required for Insured Depository Institutions With \$50 Billion or More in Total Assets" to "Resolution Plans Required for Covered Insured Depository Institutions." The proposed rule would also simplify resolution submission filings by, among other things, eliminating the distinction between group A CIDs and group B CIDs, eliminating more than half of the current rule's "content requirements" for submissions, and moving all filers to a three-year cycle.

The information collection requirements in the proposed rule are as follows:

⁴⁵ 5 U.S.C. 605(b).

⁴⁶ 44 U.S.C. 3501 *et seq.*

Section 360.10(c)(1) would require IDIs that are CIDs on the effective date of this rule to file a resolution submission.

Section 360.10(c)(2) would require new CIDs to submit an initial resolution submission.

Section 360.10(c)(3) would require CIDs to provide the FDIC with a notice of any material change resulting from or reasonably anticipated as a result of an extraordinary event.

Section 360.10(i)(1) would allow a CIDI to submit a written request to the FDIC for any requests for extensions.

Section 360.10(i)(2) would allow a CIDI to submit a written request to the FDIC for any requests for waivers of content requirements.

TABLE 1—SUMMARY OF ESTIMATED ANNUAL BURDEN

[OMB No. 3064–0185]

Information collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (hours)	Annual burden (hours)
1. Resolution Submission, Ongoing—Section 360.10(c)(1) (Mandatory).	Reporting (Annual, 3-year filing cycle).	32	.333	18,000	198,000
2. Resolution Submission, Implementation—Section 360.10(c)(2) (Mandatory).	Reporting (Annual, 3-year filing cycle).	1	1	4,078	4,078
3. Notice of Extraordinary Event—Section 360.10(c)(3) (Mandatory).	Reporting (On Occasion).	3	1	100	300
4. Written Request for Extensions—Section 360.10(i)(1) (Required to Obtain or Retain a Benefit).	Reporting (On Occasion).	1	1	5	5
5. Written Request for Waiver—Section 360.10(i)(2) (Required to Obtain or Retain a Benefit).	Reporting (On Occasion).	1	1	5	5
Total Annual Burden (Hours) .....	.....	.....	.....	.....	202,388

Source: FDIC.

Note: The estimated annual information collection time burden is the product, rounded to the nearest hour, of the estimated annual number of responses and the estimated time per response for a given IC. The estimated annual number of responses is the product, rounded to the nearest whole number, of the estimated annual number of respondents and the estimated annual number of responses per respondent. This methodology ensures the estimated annual burdens in the table are consistent with the values recorded in OMB's consolidated information system.

Comments are Invited On

(a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility;

(b) The accuracy of the estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

All comments will become a matter of public record. Comments on aspects of this proposed rule that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the address listed in the **ADDRESSES** section. Written comments and recommendations for this information collection also should be sent within 60 days of publication of this document to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 60-day Review—Open for Public Comments" or by using the search function.

C. Riegle Community Development and Regulatory Improvement Act

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA),⁴⁷ in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on IDIs, each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on affected depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of the RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form. The FDIC invites comments that further will inform its consideration of the RCDRIA.⁴⁸

⁴⁷ 12 U.S.C. 4802(a).

⁴⁸ 12 U.S.C. 4802(b).

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act⁴⁹ requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. The FDIC invites your comments on how to make this proposed rule easier to understand, including the following:

- Has the FDIC organized the material to suit your needs? If not, how could the proposed rule be more clearly stated?

- Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?

- Does the proposed rule contain language or jargon that is not clear? If so, which language requires clarification?

- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rule easier to understand? If so, what changes to the format would make the proposed rule easier to understand?

- What else could the FDIC do to make the proposed rule easier to understand?

⁴⁹ Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999), 12 U.S.C. 4809.

E. Executive Orders 12866 and 14192

Executive Order 12866 directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This proposed rule was drafted and reviewed in accordance with Executive Order 12866. Within OMB, the Office of Information and Regulatory Affairs (OIRA) has determined that this rulemaking is a “significant regulatory action” under section 3(f)(1) of Executive Order 12866. Accordingly, the draft rule was submitted to OIRA for review. As noted in other sections of the **SUPPLEMENTARY INFORMATION** of this document, the FDIC has assessed the costs and benefits of this rulemaking and has made a reasoned determination that the benefits of this rulemaking justify its costs. Executive Order 14192, titled “Unleashing Prosperity Through Deregulation,” was issued on January 31, 2025. Section 3(a) of Executive Order 14192 requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation. In furtherance of this standard, section 3(c) of Executive Order 14192 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations. This proposed rule, if finalized as proposed, is expected to be a deregulatory action under Executive Order 14192.

List of Subjects in 12 CFR Part 360

Bank deposit insurance, Banks, banking, Holding companies, National banks, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation proposes to amend 12 CFR part 360 as follows:

PART 360—RESOLUTIONS AND RECEIVERSHIPS RULES

■ 1. The authority citation for part 360 is revised to read as follows:

Authority: 12 U.S.C. 1811 *et seq.*, 1817(a)(2)(B), 1817(b), 1818(a)(2), 1818(t), 1819(a) Seventh, Eighth, Ninth, and Tenth, 1820(b)(3) and (4), 1820(g), 1821(d)(1), (4), (10)(C), and (11), 1821(e)(1) and (8)(D)(i), 1821(f)(1), 1823(c)(4), and 1823(e)(2).

■ 2. Revise § 360.10 to read as follows:

§ 360.10 Resolution submissions required for covered insured depository institutions.

(a) *Scope and purpose.* This section applies to covered insured depository institutions as defined in § 360.10(b) and requires such institutions to provide to the FDIC resolution submissions that meet the requirements of this section. This section establishes requirements regarding the content and process for providing such resolution submissions. This rule is intended to ensure that the FDIC has access to the information necessary to support the FDIC’s ability to execute a rapid, low-cost resolution of a covered insured depository institution under the FDI Act.

(b) *Definitions.*

Affiliate means any company that controls, is controlled by, or is under common control with another company.

CIDI or covered insured depository institution means an insured depository institution with the CIDI threshold amount or more in total assets, as determined based upon the average of the institution’s four most recent Consolidated Reports of Condition and Income. An insured depository institution remains a CIDI until it has less than the CIDI threshold amount in total assets, for each of the institution’s four most recent Consolidated Reports of Condition and Income. In the event of a merger, acquisition of assets, combination, or similar transaction by an insured depository institution that causes it to have the CIDI threshold amount or more in total assets, the FDIC may alternatively consider, in its discretion, to the extent and in the manner the FDIC considers to be appropriate, one or more of the four most recent Consolidated Reports of Condition and Income of the insured depository institutions that will become a CIDI effective as of the date of the consummation of such merger, acquisition, combination, or other transaction. In the event of a de novo chartered insured depository institution that has filed fewer than four Consolidated Reports of Condition and Income, the FDIC will consider the institution’s initial Consolidated Report of Condition and Income, or, if it has filed two or three reports, the average of its most recent Consolidated Reports of Condition and Income.

CIDI threshold amount is the dollar amount that determines whether an IDI is considered a CIDI pursuant to this rule, as adjusted from time to time in accordance with § 360.10(c)(5). The baseline CIDI threshold amount is \$100 billion as of the effective date of the final rule.

Company means any corporation, partnership, business trust, association, or similar organization, or any other trust unless by its terms it must terminate within twenty-five years or not later than twenty-one years and ten months after the death of individuals living on the effective date of the trust but shall not include any corporation the majority of the shares of which are owned by the United States or by any State, and shall not include a qualified family partnership.

Control. A company “controls” another company if:

(i) The company directly or indirectly or acting through one or more other persons owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the other company;

(ii) The company controls in any manner the election of a majority of the directors or trustees of the other company; or

(iii) The Board of Governors of the Federal Reserve System has determined, after notice and opportunity for hearing in accordance with 12 CFR 225.31, that the company directly or indirectly exercises a controlling influence over the management or policies of the other company.

Core business lines means those business lines of the CIDI, including associated operations, services, functions, and support, that, in the view of the CIDI, upon failure would result in a material loss of revenue, profit, or franchise value of the CIDI.

Critical services means services and operations, including shared and outsourced services, that are necessary to continue the day-to-day operations of the CIDI. This includes all services and operations that are necessary to continue any critical operation conducted by the CIDI that has been included in the most recent Title I resolution plan of any of the CIDI’s affiliates or of which such affiliate has been notified pursuant to 12 CFR 381.3(b), as applicable.

Critical services support means resources, including shared and outsourced resources, that are necessary to support the provision of critical services, including management information systems and applications, technology infrastructure, data, key personnel, intellectual property, and facilities.

FDI Act means The Federal Deposit Insurance Act of 1950, as amended.

Insured depository institution has the same meaning as in 12 U.S.C. 1813(c)(2).

Key personnel means personnel tasked with an essential role in, or in

support of, a core business line, or critical service, or having a function, responsibility, or knowledge that is significant to the operational continuity of the CIDI. Key personnel may be employed by the CIDI, an affiliate of the CIDI, or a third party.

Material change means a change in organization, operations, or strategic direction of the CIDI since the CIDI's most recent resolution submission that has a material financial or operational effect on the CIDI as described in that most recently submitted resolution submission, including:

- (i) The identification of a new core business line or de-identification of a core business line;
- (ii) The identification of a new material entity or the de-identification of a material entity;
- (iii) Changes to legal or functional organizational structure;
- (iv) Changes to the balance sheet, including liability composition and asset composition;
- (v) Changes to critical services or critical services support;
- (vi) Changes to key management information systems and applications; or
- (vii) Changes to foreign activities and operations.

Material entity means any affiliate of a CIDI, including a domestic branch or a foreign branch as defined in 12 U.S.C. 1813(o), that is significant to the activities of a critical service or core business line, and includes all IDIs that are subsidiaries or affiliates of the CIDI.

Material loan portfolio means a pool or portfolio of loans that is significant in terms of income or value to the CIDI or may, in the view of the CIDI, have limited bidder interest or marketability.

Payment, clearing, and settlement service provider (PCS service provider) means a provider of payment, clearing, and settlement services, agent bank, or financial market utility.

Qualified financial contract has the same meaning as in 12 U.S.C. 1821(e)(8).

Resolution submission means the submission filed by the CIDI pursuant to this section.

Subsidiary means any company which is:

- (i) owned or controlled directly or indirectly by another company; and
- (ii) includes any service corporation owned in whole or part by an insured depository institution or any subsidiary of such a service corporation.

Title I resolution plan means a resolution plan filed by a CIDI's affiliate under 12 U.S.C. 5365(d).

Total assets has the meaning given in the instructions for the filing of

Consolidated Reports of Condition and Income.

United States means the United States of America and includes any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(c) *Resolution submissions required*—

(1) *Submission date.* Each IDI that is a CIDI on the effective date of this rule will receive a written notice from the FDIC specifying the date on which its initial resolution submission is due, which will be at least 270 days after [EFFECTIVE DATE OF FINAL RULE]. After the submission of its initial resolution submission under this rule, a CIDI must provide a resolution submission to the FDIC on or before the date that is three years after the date of its most recent resolution submission (or first business day thereafter), unless it has received written notice of a different date from the FDIC.

(2) *Resolution submission by new CIDs.* An insured depository institution that becomes a CIDI after [EFFECTIVE DATE OF FINAL RULE] must submit its initial resolution submission on or before the date specified in writing by the FDIC. Such date will occur no earlier than 270 days after the date on which the insured depository institution became a CIDI.

(3) *Notice of extraordinary event.* (i) *Requirements.* A CIDI must provide the FDIC with a notice no later than 45 days after any material merger, acquisition or disposition of assets, or similar transaction or fundamental change to the CIDI's organizational structure, core business lines, size, or complexity. The notice must describe any material change resulting from or reasonably anticipated as a result of the extraordinary event.

(ii) *Exception.* A CIDI is not required to submit a notice under paragraph (c)(3)(i) of this section if the date by which the CIDI would be required to submit the notice under paragraph (c)(3)(i) of this section would be within 90 days before the date on which the CIDI is required to make a resolution submission under this section. A CIDI is not required to submit a notice under paragraph (c)(3)(i) of this section if the CIDI has not yet filed its initial resolution submission.

(4) *Incorporation from other sources.*

(i) *Sources.* A CIDI may incorporate information into its resolution submission from one or more of the following sources without seeking the authorization for disclosure of FDIC

confidential information required under 12 CFR part 309:

(A) The most recent resolution submission submitted by a CIDI's affiliate,

(B) The most recent Title I resolution plan of a CIDI's affiliate, or

(C) Any other regulatory filing by the CIDI or a CIDI's affiliate with the FDIC.

(ii) *Requirements for incorporation from other sources.* A CIDI may incorporate information from other sources only if:

(A) The resolution submission seeking to incorporate information from other sources clearly indicates the source and as-of date of the information the CIDI is incorporating, and the information required by this section is readily distinguishable from any extraneous information contained in the source, with a description of any material differences, and

(B) The CIDI certifies that the information the CIDI is incorporating from other sources remains accurate in all respects that are material to the CIDI's resolution submission.

(5) *Threshold indexing.* (i) *Methodology.* The CIDI threshold amount will be adjusted by multiplying the baseline CIDI threshold amount by one plus the cumulative percent change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured from the effective date of the final rule, as further described in paragraph (c)(5)(ii), and will be rounded in accordance with paragraph (c)(5)(iii).

(ii) *Frequency.* (A) *In general—triennial adjustments.* Except as otherwise provided in paragraphs (c)(5)(ii)(B) and (C), the adjustments described in paragraph (c)(5)(i) will be effective on October 1 following each consecutive three-year period ending August 31, and using the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers as of August 31 of that year.

(B) *2030 adjustment.* The first adjustment, described in paragraph (c)(5)(i), which will be effective on October 1, 2030, will be made using one plus the cumulative percent change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers through August 31, 2030.

(C) *Periods of negative inflation—no adjustments.* Notwithstanding paragraphs (c)(5)(ii)(A) or (B), if an adjustment of the CIDI threshold amount using the cumulative percent change of the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers from the effective date of the final rule or the

most recent adjustment, as applicable, would not result in an increase from the then current CIDI threshold amount, no adjustment will be made pursuant to paragraph (c)(5)(i).

(iii) *Rounding.* The CIDI threshold amount will be rounded based on the size of the CIDI threshold amount (*e.g.*, billions) to the nearest number with two significant digits.

(iv) *Effective date of CIDI threshold amount adjustments.* The FDIC will announce the CIDI threshold amount adjusted in accordance with paragraph (c)(5)(i) by publishing in the **Federal Register** a final rule without notice and comment. The adjusted CIDI threshold amount will be effective on October 1 of the year during which an adjustment is made.

(v) *Failure to publish final rule in Federal Register.* In the event, for any reason, a final rule is not published in the **Federal Register** in a year in which an adjustment is made under this paragraph (c)(5), the CIDI threshold amount will adjust as provided in paragraph (c)(5)(i) and be effective on October 1, notwithstanding the lack of a final rule published in the **Federal Register**.

(d) *Content of the resolution submissions for CIDs.* Each CIDI must submit a resolution submission that includes all content specified in this paragraph (d).

(1) *Organizational structure: legal entities and core business lines.*

(i) Identify and describe the legal and functional structures of the CIDI and its affiliates, including all material entities, and provide an organizational chart for their legal structures.

(ii) Describe all components of the operations of the CIDI and its affiliates that are based or located outside of the United States that contribute to the value, revenues, or operations of the CIDI. Identify all authorities with regulatory or supervisory authority over these operations.

(iii) Identify and describe each of the CIDI's core business lines, including the assets and annual revenue for each. Describe whether any core business line draws additional value from, or relies on the operations of, an affiliate of the CIDI and identify any such operations that are based or located outside of the United States. Map core business lines to material entities.

(iv) Identify all other CIDI offices or agencies not otherwise noted through content items (d)(1)(i)–(iii) with operations based or located outside of the United States that contribute financially or operationally to the CIDI.

(v) Identify the CIDI's non-controlling ownership interests in limited liability

companies, investments in partnerships, and involvement in joint ventures or similar arrangements. For each non-controlling ownership interest described above, provide the type of entity, the entity's total assets and total liabilities, and the CIDI's ownership percentage. For joint ventures, provide a description of the arrangement and its purpose.

(2) *Interconnections.*

(i) Describe the CIDI's reliance in its day-to-day operations on its affiliates.

(ii) If a CIDI's affiliate is a broker-dealer that provides services to the CIDI or customers of the CIDI, describe such services and the integration of the broker-dealer with the CIDI's business and operations.

(3) *Deposit activities.*

(i) Describe the CIDI's overall deposit activities, including a list of deposit products, and describe the source of the deposits and the manner in which these deposits are identified on the CIDI's systems and records (such as product type description or general ledger description).

(ii) Identify and describe deposit sweep arrangements, if any, that the CIDI has with any of its affiliates or a third party. Such description should identify the settlement timeframe and contracts governing such deposit sweep arrangement. If the CIDI receives significant amounts of deposits through such deposit sweep arrangements (individually or collectively), the CIDI should include a discussion of such relationships, including a discussion of the controls in place to immediately cease accepting, generating, and executing deposit sweep transactions or transfers effective as of the FDIC Cutoff Point, as defined in 12 CFR 360.8(b)(1).

(iii) Identify all omnibus, deposit sweep, and pass-through accounts. For each of these accounts, identify the accountholder, the location of relevant contracts, and the system on which the accounts are maintained. Provide the reports used to monitor deposit sweep account arrangements with an explanation of any data lag that affects the accuracy of such reports.

(iv) For each foreign branch, include the branch code and total deposits carried on its books and records, and identify for which branches those deposits are dually payable in the United States. Describe any relationship between any deposit sweep arrangements with foreign branches and affiliates. Describe any controls in place to restrict movement of funds to or from accounts in foreign branches.

(4) *Critical services.*

(i) Identify and describe the CIDI's critical services and critical services support, including the names of the

providers and whether they are provided, in whole or in part, by or through:

(A) The CIDI itself (or a particular branch of the CIDI) or a subsidiary of the CIDI (and further indicate whether those critical services or critical services support are ultimately provided by a third party), or

(B) An affiliate of the CIDI other than a branch or a subsidiary of the CIDI (and further indicate whether those critical services or critical services support are ultimately provided by a third party).

(ii) For each PCS service provider of which the CIDI directly is a member or has a direct relationship and that provides a critical service or a critical services support:

(A) Describe the PCS services provided, including the value and volume of activities on a per-provider basis.

(B) Map those PCS service providers to the CIDI's legal entities and core business lines that hold direct membership, have a direct relationship, or receive such PCS services.

(iii) Map critical services support to the legal entities that own, contract for, or employ them, and map critical services to the material entities and core business lines that they support.

(iv) Identify the physical locations and jurisdictions of each provider of critical services and critical services support that are located outside of the United States.

(v) Identify contracts for critical services and critical services support that contain provisions that, upon the insolvency of the CIDI or the FDIC being appointed receiver of the CIDI, purport to permit the service provider to stop providing services, to alter pricing, or to alter other terms of service.

(5) *Management information systems; software licenses; intellectual property.*

(i) Provide a mapping of the CIDI's information technology architecture and a detailed inventory and description of the key management information systems and applications. This should include the core processors for deposit and loan data, and systems and applications for risk management, accounting, and financial and regulatory reporting, used by or for the benefit of the CIDI and CIDI subsidiaries. For each key management information system or application the description must identify the legal owner, any licensor, the key personnel (including third parties) needed to support and operate the system or application, the system or application's use and function, any core business line that uses the system or application, its physical location (if any), any related third party contracts or

service-level agreements, any related software or systems licenses, and any other related intellectual property.

(ii) Identify the end-of-day processing cut-off times for deposit and loan operations.

(6) *Key personnel.*

(i) Identify all key personnel by title, function, physical location, employing legal entity, and whether they are dual-hatted. If relevant, identify any CIDI-sponsored work authorizations and the associated jurisdictions that are located outside of the United States.

(ii) Identify all employee benefit programs provided to key personnel, including health insurance, defined contribution and defined benefit retirement programs, and any other employee wellness programs, as well as any collective bargaining agreements or other similar arrangements. Identify the legal entity sponsor of each employee benefit program, and provide a description of and points of contact (by title) for such programs.

(iii) Identify key personnel who are responsible for the CIDI's crisis communications and describe key communications channels that are used across key stakeholder categories.

(7) *Material loan portfolios.* Identify each material loan portfolio by size and by class within such material loan portfolio, and include a breakdown of those loans within a material loan portfolio that are held by a foreign branch or subsidiary of the CIDI. For each material loan portfolio, describe how the loans within the portfolio are valued.

(8) *Off-balance-sheet exposures.* Identify any material off-balance-sheet exposures (including the amount and nature of unfunded commitments, guarantees, and contractual obligations) of the CIDI and map those exposures to core business lines.

(9) *Qualified financial contracts.*

(i) Identify and describe the types of qualified financial contracts to which the CIDI or any of its subsidiaries is a party and how such qualified financial contracts are used in the provision of services to customers or in the management of risk, including how the CIDI and its subsidiaries offset position risks from such contracts. The CIDI must describe the types of qualified financial contracts utilized by each core business line and the business purpose or risk management purpose of such qualified financial contracts. The CIDI must identify whether the CIDI or any of its subsidiaries enter into qualified financial contracts that are related to loans to customers made by any affiliate of the CIDI (other than any subsidiary of the CIDI) and, if so, the types of such

qualified financial contracts. The CIDI must identify the types of counterparties with which the CIDI and its subsidiaries have qualified financial contracts.

(ii) Identify the booking models used by the CIDI and each of its subsidiaries to support the marketing and management of risk from qualified financial contracts, including whether customer-facing risk or other dealer-facing risk resides in the CIDI and CIDI subsidiaries while the position risk hedging is performed by an affiliate of the CIDI. Describe the CIDI's use of any "global risk book," "remote bookings," or "back-to-backs" booking model.

(iii) Describe how the CIDI and each of its subsidiaries use qualified financial contracts to manage its hedging or liquidity needs, including describing the hedged items (including underlying risk, cash flow, assets or liability being hedged) and the applicable core business line, as well as the approach used to mitigate such risks.

(iv) For each of paragraphs (d)(9)(i) through (iii) of this section, identify systems and any third-party providers used by the CIDI or any of its subsidiaries for valuations, reporting, and any other purposes related to qualified financial contracts.

(10) *Unconsolidated balance sheet and material entity financial statements.* Provide an unconsolidated balance sheet for the CIDI and a consolidating schedule for all material entities that are subject to consolidation with the CIDI. Amounts attributed to legal entities that are not material entities may be aggregated on the consolidating schedule. Provide financial statements for each material entity. When available, audited financial statements should be provided.

(11) *Composition of non-deposit liabilities and funding sources*

(i) Identify the composition of the non-deposit liabilities of the CIDI including the types and amounts of short-term and long-term liabilities by type and term to maturity, secured and unsecured liabilities, and subordinated liabilities. Such information must include whether such liabilities are held by affiliates, whether they are publicly issued, their maturity, any call rights provided, and, where applicable, the identity of their indenture trustees.

(ii) Identify material affiliate funding relationships, and material inter-affiliate exposures, including amount, terms, purpose, and date of maturity, that the CIDI or any CIDI subsidiary has with any affiliate, and that the CIDI has with any CIDI subsidiary or foreign branch that is a material entity. Such information must include material affiliate financial exposures, claims or

liens, lending or borrowing lines and relationships, guaranties, deposits, and derivatives transactions.

(iii) Identify any capital maintenance agreements and any similar arrangements that the CIDI or any CIDI subsidiary has with any affiliate, and the location of related assets, funds, or deposits.

(12) *Digital services and products.*

(i) Briefly describe any novel or emerging digital services and products currently offered to retail or business customers through online, mobile, or digital channels, including online or mobile banking applications and digital wallets and other embedded arrangements.

(ii) Identify whether such digital services and products are provided by the CIDI, the CIDI's affiliate, or a third party and which of them owns the related intellectual property or is the licensee. For digital services and products provided by a third party, identify the entity and its role in the arrangement.

(iii) For each digital service and product, identify the system on which the CIDI retains customer records.

(13) *Summary of other updates since prior submission.*

(i) Describe each material change since the prior resolution submission that has not already been addressed in a notice of extraordinary event addressing the changed element.

(ii) Describe the changes to the CIDI's previously submitted resolution submission resulting from any change in law or regulation or guidance.

(e) *Review of resolution submissions.* The FDIC will review the resolution submission to determine whether it meets the applicable requirements of this section in all material respects.

(f) *Engagement.* As part of the FDIC's review of the resolution submission, the FDIC may engage with the CIDI to ask clarifying questions with regard to the information contained within it.

(g) *No limiting effect on FDIC.* No resolution submission provided pursuant to this section will be binding on the FDIC as supervisor, deposit insurer, or receiver for a CIDI or otherwise require the FDIC to act in conformance with such resolution submission.

(1) *Financial information.* The resolution submission must, to the greatest extent possible, use financial information as of the most recent fiscal year-end for which the CIDI has financial statements. If the use of financial information as of a more recent date for which the CIDI has financial statements would more accurately reflect the operations of the CIDI on the

date of the submission, to the greatest extent possible, the CIDI will use financial information as of that more recent date. If the resolution submission is due on or before a date that is less than six months after the end of the most recent fiscal year-end (for example, before July 1, if the fiscal year end is December 31), the CIDI may use financial information as of the quarter immediately preceding year-end.

(2) *Indexing of information to resolution submission content requirements.* A resolution submission must include an index of each content requirement in paragraph (d) of this section required to be included in that resolution submission to every instance of its location in the resolution submission. To the extent any content requirement is not applicable to a CIDI, the CIDI must note such inapplicability and briefly describe the reason.

(3) *Combined resolution submission by affiliated CIDs.* CIDs that are affiliates may submit a single, combined resolution submission. The combined resolution submission must satisfy the content requirements for each CIDI's resolution submission, as applicable, and the FDIC must be able to readily identify the portions of a combined resolution submission that comprise each CIDI's resolution submission.

(h) *Confidential treatment of resolution submissions.* (1) The confidentiality of resolution submissions must be determined in accordance with applicable exemptions under the Freedom of Information Act (5 U.S.C. 552(b)) and the FDIC's Disclosure of Information Rules (12 CFR part 309).

(2) Any CIDI submitting a resolution submission or related materials pursuant to this section that desires confidential treatment of the information submitted pursuant to 5 U.S.C. 552(b)(4) and 12 CFR part 309 and related policies may file a request for confidential treatment in accordance with those rules.

(3) To the extent permitted by law, information comprising a resolution submission will be treated as confidential.

(4) To the extent permitted by law, the submission of any non-publicly available data or information under this section will not constitute a waiver of, or otherwise affect, any privilege arising under Federal or State law (including the rules of any Federal or State court) to which the data or information is otherwise subject. Privileges that apply to resolution submissions and related materials are protected pursuant to 12 U.S.C. 1828(x).

(i) *Extensions and exemptions—(1) Extension.* Notwithstanding the general requirements of paragraph (c) of this section, on a case-by-case basis, the FDIC may extend, on its own initiative or upon written request, any time frame or deadline of this section.

(2) *Waiver.* The FDIC may, on its own initiative or upon written request, exempt a CIDI from one or more of the requirements of this section.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on June 26, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026–13191 Filed 6–29–26; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 74, 91, and 107

[Docket No. FAA–2026–4558; Notice No. 26–03A]

RIN 2120–AL33

Designation—Restrict the Operation of Unmanned Aircraft in Close Proximity to a Fixed Site Facility; Extension of Comment Period

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

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This action extends the comment period for the NPRM titled “Designation—Restrict the Operation of Unmanned Aircraft in Close Proximity to a Fixed Site Facility” that was published in the **Federal Register** on May 6, 2026, to allow commenters additional time to analyze the proposed rule and prepare a response. In the NPRM, FAA proposed a process for operators and proprietors of certain fixed site facilities to request an unmanned aircraft flight restriction (UAFR); criteria to demonstrate the UAFR is necessary for: aviation safety, protection of people and property on the ground, national security, or homeland security; and identified the types of operations allowed in the UAFR.

DATES: The comment period for the NPRM published on May 6, 2026, at 91 FR 24650, and scheduled to close on July 6, 2026, is extended until August 5, 2026.

ADDRESSES: Send comments identified by docket number FAA–2026–4558 using any of the following methods:

- *Federal eRulemaking Portal:* Go to www.regulations.gov and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W58–213, West Building 5th Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W58–213 of the West Building 5th Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Docket: Background documents or comments received may be read at <https://www.regulations.gov/> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W58–213 of the West Building 5th Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michelle Ferritto, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; Phone: (844) 359–6982; Email: 2209-UAFR@faa.gov.

SUPPLEMENTARY INFORMATION:

A. Comments Invited

FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, FAA will consider all comments it receives on or before the closing date for comments. FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), FAA solicits comments from the

public to better inform its rulemaking process. FAA posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

B. Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and is relevant or responsive to this NPRM, it is important you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to the person in the **FOR FURTHER INFORMATION CONTACT** section of this document. Any commentary FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

If your comment contains classified, controlled unclassified information not intended for public release, sensitive security information, or other information, contact the person named in the **FOR FURTHER INFORMATION CONTACT** section of this document for information on how to securely provide that comment to FAA.

C. Availability of Rulemaking Documents

A copy of the NPRM, all comments received, any final rule, and all background material may be viewed online at www.regulations.gov using the docket number listed above. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at www.federalregister.gov and the Government Publishing Office's website at www.govinfo.gov. A copy may also be found at FAA's Regulations and Policies website at www.faa.gov/regulations_policies. Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence

Avenue SW, Washington, DC 20591, or by calling (202) 267-9680. Commenters must identify the docket or notice number of this rulemaking.

All documents FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed in the electronic docket for this rulemaking.

Background

On May 6, 2026, FAA published a NPRM titled "Designation-Restrict the Operation of Unmanned Aircraft in Close Proximity to a Fixed Site Facility" in the **Federal Register** (91 FR 24650). In that proposed rule, the FAA proposed the implementation of section 2209 of the FAA Extension, Safety and Security Act of 2016 (Pub. L. 114-190), by establishing a process for operators and proprietors of certain fixed site facilities to request and maintain an unmanned aircraft flight restriction. The proposal also established requirements for applicants to demonstrate the UAFR is necessary for: aviation safety, protection of people and property on the ground, national security, or homeland security. Lastly, the proposal identified the types of operations that are allowed in the UAFR. Commenters were instructed in the NPRM to provide comments on or before July 6, 2026 (*i.e.*, 60 days after the date of publication of the NPRM).

Since publication of the NPRM, FAA has received a request from the Office of the Attorney General of the State of New York (OAG) to extend the comment period by an additional thirty (30) days. The OAG requested more time to review the proposed rule, develop comments and recommendations, and coordinate those comments among their stakeholders.¹

The OAG stated the proposed rule raises questions concerning the UAFR process, including implications for critical site security, public safety, interplay with State and local laws, and impacts on State-authorized drone missions. The OAG noted that developing its comments requires coordination and consultation with multiple State and local agencies. Additionally, the OAG identified recent developments that it asserted require evaluation time, specifically a new provision added to the New York Penal Law on May 27, 2026, addressing offenses relating to the unlawful use of a drone, and public reports of more than 300 drone seizures at FIFA World Cup match venues since June 11, 2026. The OAG stated the proposed rule introduces a new regulatory regime

spanning 16 critical infrastructure sectors, and that the initial 60-day comment period contains three federal holiday weekends.

Extension of Comment Period

FAA has reviewed, and grants, the request for an extension of the comment period. FAA recognizes the importance of the proposed rule, and that an extension would help commenters craft complete and thoughtful responses. Therefore, FAA finds that an additional thirty (30) days will provide sufficient opportunity for the public to review the NPRM and provide comments.

Additionally, in the NPRM, FAA requested comments on the economic impact to commercial unmanned aircraft system (UAS) operators if they are not allowed to transit UAFRs. In extending the comment period, FAA is also requesting data to estimate the compliance costs for UAS operators, including small operators, to transit the proposed UAFRs.

Accordingly, the comment period for the NPRM published on May 6, 2026, at 91 FR 24650 (FR Doc. 2026-08943), is extended from July 6, 2026, until August 5, 2026.

Issued under authority provided by 49 U.S.C. 106(f), 40101(d), 40103(a)(2), 40103(b), 44701(a)(5), and 44802 note in Washington, D.C.

Michelle Ferritto,

Director, Airmen and Airspace Rules Division, Office of Rulemaking.

[FR Doc. 2026-13126 Filed 6-26-26; 11:15 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-4663; Project Identifier MCAI-2026-00208-T]

RIN 2120-AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2023-23-06, which applies to certain Dassault Aviation Model FALCON 2000EX airplanes. AD 2023-23-06 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations.

¹ The request is in the docket.

Since the FAA issued AD 2023–23–06, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would continue to require certain actions in AD 2023–23–06 and would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by July 30, 2026.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–4663; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*. It is also available at *regulations.gov* under Docket No. FAA–2026–4663.

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

FOR FURTHER INFORMATION CONTACT:

Amanda Pieraccini, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7329; email: *9-AVS-AIR-BACO-COS@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include “Docket No. FAA–2026–4663; Project Identifier MCAI–2026–00208–T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Amanda Pieraccini, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7329; email: *9-AVS-AIR-BACO-COS@faa.gov*. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2023–23–06, Amendment 39–22608 (88 FR 86029, December 12, 2023) (AD 2023–23–06), for certain Dassault Aviation Model FALCON 2000EX airplanes. AD 2023–23–06 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States

of the European Union. EASA issued AD 2023–0100, dated May 11, 2023 (EASA AD 2023–0100), to correct an unsafe condition.

AD 2023–23–06 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2023–23–06 to address reduced structural integrity of the airplane.

Actions Since AD 2023–23–06 Was Issued

Since the FAA issued AD 2023–23–06, EASA superseded AD 2023–0100 and issued EASA AD 2026–0041, dated February 27, 2026 (EASA AD 2026–0041) (also referred to as the MCAI), for all Dassault Aviation Model FALCON 2000EX airplanes. Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after January 15, 2026, must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability. The MCAI states that new or more restrictive airworthiness limitations have been developed.

The FAA is proposing this AD to address reduced structural integrity of the airplane. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–4663.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2026–0041 specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This proposed AD would also require EASA AD 2023–0100, which the Director of the Federal Register approved for incorporation by reference as of January 16, 2024 (88 FR 86029, December 12, 2023).

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

FAA’s Determination

These products have been approved by the civil aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the

unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would retain certain requirements of AD 2023–23–06. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, which are specified in EASA AD 2026–0041 already described, as proposed for incorporation by reference. Any differences with EASA AD 2026–0041 are identified as exceptions in the regulatory text of this proposed AD.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (e.g., inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (m)(1) of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to retain the Incorporation by Reference (IBR) of EASA AD 2023–0100 and incorporate EASA AD 2026–0041 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2023–0100 and EASA AD 2026–0041 through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2023–0100 or EASA AD 2026–0041 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this proposed AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in

EASA AD 2023–0100 or EASA AD 2026–0041. Material required by EASA AD 2023–0100 is available at [regulations.gov](https://www.regulations.gov) by searching for and locating Docket No. FAA–2026–4663 and material required by EASA AD 2026–0041 for compliance will be available at [regulations.gov](https://www.regulations.gov) by searching for and locating Docket No. FAA–2026–4663 after the FAA final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

The previous format of the airworthiness limitation ADs included a paragraph that specified that no alternative actions (e.g., inspections or intervals) may be used unless the actions and intervals are approved as an AMOC in accordance with the procedures specified in the AMOCs paragraph under “Additional AD Provisions.” This new format includes a “New Provisions for Alternative Actions and Intervals” paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative action or interval.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 315 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2023–23–06 to be \$7,650 (90 work-hours × \$85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2023–23–06, Amendment 39–22608 (88 FR 86029, December 12, 2023); and

■ b. Adding the following new AD:

Dassault Aviation: Docket No. FAA–2026–4663; Project Identifier MCAI–2026–00208–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by July 30, 2026.

(b) Affected ADs

This AD replaces AD 2023–23–06, Amendment 39–22608 (88 FR 86029, December 12, 2023) (AD 2023–23–06).

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 2000EX airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before January 15, 2026.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program, With a New Terminating Action

This paragraph restates the requirements of paragraph (j) of AD 2023–23–06, with a new terminating action. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before January 15, 2023: Except as specified in paragraph (h) of this AD, comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023–0100, dated May 11, 2023 (EASA AD 2023–0100). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2023–0100, With No Change

This paragraph restates the exceptions specified in paragraph (k) of AD 2023–23–06, with no change.

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2023–0100.

(2) Paragraph (3) of EASA AD 2023–0100 specifies revising “the approved AMP” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after January 16, 2024 (the effective date of AD 2023–23–06).

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2023–0100 is at the applicable “limitations” and “associated thresholds” as incorporated by the requirements of paragraph (3) of EASA AD 2023–0100, or within 90 days after January 16, 2024 (the effective date of AD 2023–23–06), whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2023–0100.

(5) This AD does not adopt the “Remarks” section of EASA AD 2023–0100.

(i) Retained Provisions on Alternative Actions and Intervals, With a New Exception

This paragraph restates the requirements of paragraph (l) of AD 2023–23–06, with a new exception. Except as required by paragraph (j) of this AD, after the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections), and intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2023–0100.

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

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2026–0041, dated February 27, 2026 (EASA AD 2026–0041). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2026–0041

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2026–0041.

(2) Paragraph (3) of EASA AD 2026–0041 specifies revising the approved aircraft maintenance program (AMP) within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2026–0041 is at the applicable limitations and associated thresholds as incorporated by the requirements of paragraph (3) of EASA AD 2026–0041.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2026–0041.

(5) This AD does not adopt the “Remarks” section of EASA AD 2026–0041.

(l) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (e.g., inspections) and intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2026–0041.

(m) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(n) Additional Information

For more information about this AD, contact Amanda Pieraccini, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7329; email: 9-AVS-AIR-BACO-COS@faa.gov.

(o) Material Incorporated by Reference

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

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

(3) The following material was approved for IBR on [DATE 35 DAYS AFTER PUBLICATION OF THE FINAL RULE].

(i) European Union Aviation Safety Agency (EASA) AD 2026–0041, dated February 27, 2026.

(ii) [Reserved]

(4) The following material was approved for IBR on January 16, 2024 (88 FR 86029, December 12, 2023).

(i) European Union Aviation Safety Agency (EASA) AD 2023–0100, dated May 11, 2023.

(ii) [Reserved]

(5) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADS@easa.europa.eu. You

may find this material on the EASA website at ad.easa.europa.eu.

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

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

Issued on June 25, 2026.

Christopher R. Parker,

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

[FR Doc. 2026-13130 Filed 6-29-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-4668; Project Identifier AD-2025-01680-T]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 747-400 series airplanes. This proposed AD was prompted by reports of potable water leaking into the electrical equipment bay cooling air inlet. This proposed AD would require performing repetitive inspections of potential water sources from the upper deck and the main deck, including potable water and waste water lines, for any water leaks and clogs, and applicable on-condition actions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by August 14, 2026.

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

- *Federal eRulemaking Portal:* Go to regulations.gov. Follow the instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-

30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA-2026-4668; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

• For Boeing material identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; website myboeingfleet.com.

• You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at regulations.gov under Docket No. FAA-2026-4668.

FOR FURTHER INFORMATION CONTACT: Nicole S. Tsang, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206-231-3959; email: nicole.s.tsang@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include "Docket No. FAA-2026-4668; Project Identifier AD-2025-01680-T" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Nicole S. Tsang, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206-231-3959; email: nicole.s.tsang@faa.gov. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA received reports of potable water leaking into the electrical equipment bay cooling air inlet on the Boeing Model 777F series airplanes. There are no reported events of water leaking into the electrical equipment bay cooling air inlet on the large cargo freighter variant of the Model 747-400 series airplanes. However, there are reported events of leakages on the upper deck in areas that could pool and drip onto the air inlet. The FAA has determined that the large cargo freighter variant has unique design features that introduce several potential potable and waste water sources from the upper deck and the main deck that could leak into the air inlet and enter the electrical equipment bay. This condition, if not addressed, could impact the function of multiple electronics and line replaceable units in the equipment bay racks that are essential for safe flight, which could result in loss of continued safe flight and landing.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Message TBC-TBC-25-6694-01B, dated

November 7, 2025 (pages 4 through 15 of this document are dated October 29, 2025). This material specifies procedures for the following repetitive inspections of potential water sources from the upper deck and the main deck, including potable water and waste water lines, for any water leaks and clogs, and applicable on-condition actions. The inspections include the following actions:

- Perform general visual inspection (GVI) of the potable water lines for any water leaks;
- Run the coffee maker through a brew cycle;
- Perform GVI of the galley compartments for any water leaks;
- Check for any indication of clog from the drainage system in the lavatory and galley sinks and the lavatory and galley sink drains;
- Perform GVI of the floor of the lavatory, the lavatory sink, the area behind the galley on its outboard left side including the potable water and waste water lines, and the upper deck hallway floor for signs of leakage; and
- Inspect the potable water and drain lines running along the main deck ceiling for sign of leaks.

On-condition actions include using normal operator procedures and

repeating the work step(s) as required to resolve the leakage or clog or rendering the water/waste systems or individual components inoperable; and checking the engine indication crew alert system (EICAS) display for any new messages.

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions identified as “RC” (required for compliance) in the Water Leak Check Work Instructions of Boeing Message TBC–TBC–25–6694–01B, dated November 7, 2025, already described, except for any differences identified as exceptions in the regulatory text of this proposed AD. For information on the procedures and compliance times, see this material at *regulations.gov* under Docket No. FAA–2026–4668.

Clarification of Compliance Time for On-Condition Actions

Although Boeing Message TBC–TBC–25–6694–01B, dated November 7, 2025,

specifies the compliance time to perform RC actions is within 1,000 flight hours (FH) of the date of Boeing Message TBC–TBC–25–6694–01B and at recurring intervals not to exceed 1,000 FH, step 27 of the Water Leak Check Work Instructions specifies the compliance times for the applicable on-condition actions are before further flight. Therefore, paragraph (h)(2) of this proposed AD would require the applicable on-condition actions to be done before further flight.

Interim Action

The FAA considers that this proposed AD would be an interim action. The manufacturer is currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, the FAA might consider additional rulemaking.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 4 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	5 work-hours × \$85 per hour = \$425 per inspection cycle.	\$0	\$425 per inspection cycle	\$1,700 per inspection cycle.

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on

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

the number of aircraft that might need these on-condition actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
On-condition actions	Up to 6 work-hours × \$85 per hour = \$510.	\$0	Up to \$510.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil

aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the

States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2026–4668; Project Identifier AD–2025–01680–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by August 14, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 747–400 series airplanes, certificated in any category, as identified in Boeing Message TBC–TBC–25–6694–01B, dated November 7, 2025.

(d) Subject

Air Transport Association (ATA) of America Code 38, Water/waste.

(e) Unsafe Condition

This AD was prompted by reports of potable water leaking into the electrical equipment bay cooling air inlet. The FAA is issuing this AD to address water leaking into the air inlet and entering the electrical equipment bay. The unsafe condition, if not addressed, could impact the function of multiple electronics and line replaceable units in the equipment bay racks that are essential for safe flight, which could result in loss of continued safe flight and landing.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraph (h) of this AD: At the applicable times specified in paragraph “Recommended Incorporation Timeframe” of Boeing Message TBC–TBC–25–6694–01B, dated November 7, 2025, do all applicable actions identified as “RC” (required for compliance) in, and in accordance with, the Water Leak Check Work Instructions of Boeing Message TBC–TBC–25–6694–01B, dated November 7, 2025.

(h) Exceptions to Service Bulletin Specifications

(1) Where Boeing Message TBC–TBC–25–6694–01B, dated November 7, 2025, refers to the message date of Boeing Message TBC–TBC–25–6694–01B, this AD requires using the effective date of this AD.

(2) This AD requires performing all applicable on-condition actions as specified in step 27 of the Water Leak Check Work Instructions of Boeing Message TBC–TBC–25–6694–01B before further flight.

(i) Alternative Methods of Compliance (AMOCs)

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

(2) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(3) For material that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(3)(i) and (ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled “RC Exempt,” then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator’s maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(j) Additional Information

For more information about this AD, contact Nicole S. Tsang, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3959; email: nicole.s.tsang@faa.gov.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of

the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(i) Boeing Message TBC–TBC–25–6694–01B, dated November 7, 2025.

Note 1 to paragraph (k)(2)(i): Pages 4 through 15 of this document are dated October 29, 2025.

(ii) [Reserved]

(3) For Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website myboeingfleet.com.

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

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

Issued on June 24, 2026.

Brian Knaup,

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

[FR Doc. 2026–13129 Filed 6–29–26; 8:45 am]

BILLING CODE 4910–13–P

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

[Docket No. FAA–2026–4662; Project Identifier MCAI–2026–00207–T]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2023–22–12, which applies to all Dassault Aviation Model FALCON 2000 airplanes. AD 2023–22–12 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2023–22–12, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would continue to require certain actions in AD 2023–22–12 and would require revising the existing maintenance or

inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by July 30, 2026.

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

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA-2026-4662; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*. It is also available at *regulations.gov* under Docket No. FAA-2026-4662.

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

FOR FURTHER INFORMATION CONTACT: Amanda Pieraccini, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516-228-7329; email: *9-AVS-AIR-BACO-COS@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include "Docket No. FAA-2026-4662; Project Identifier MCAI-2026-00207-T" at the

beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Amanda Pieraccini, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516-228-7329; email: *9-AVS-AIR-BACO-COS@faa.gov*. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2023-22-12, Amendment 39-22596 (88 FR 81342, November 22, 2023) (AD 2023-22-12), for all Dassault Aviation Model FALCON 2000 airplanes. AD 2023-22-12 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2023-0099, dated May 11, 2023 (EASA AD 2023-0099), to correct an unsafe condition.

AD 2023-22-12 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2023-

22-12 to address reduced controllability of the airplane.

Actions Since AD 2023-22-12 Was Issued

Since the FAA issued AD 2023-22-12, EASA superseded AD 2023-0099 and issued EASA AD 2026-0040, dated February 27, 2026 (EASA AD 2026-0040) (also referred to as the MCAI), for all Dassault Aviation Model FALCON 2000 airplanes. The MCAI states that new or more restrictive airworthiness limitations have been developed.

The FAA is proposing this AD to address reduced controllability of the airplane. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA-2026-4662.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2026-0040 specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This proposed AD would also require EASA AD 2023-0099, which the Director of the Federal Register approved for incorporation by reference as of December 27, 2023 (88 FR 81342, November 22, 2023).

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would retain certain requirements of AD 2023-22-12. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, which are specified in EASA AD 2026-0040 already described, as proposed for incorporation by reference. Any differences with EASA AD 2026-0040 are identified as exceptions in the regulatory text of this proposed AD.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (e.g., inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (m)(1) of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to retain the Incorporation by Reference (IBR) of EASA AD 2023–0099 and incorporate EASA AD 2026–0040 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2023–0099 and EASA AD 2026–0040 through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2023–0099 or EASA AD 2026–0040 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this proposed AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2026–0040. Material required by EASA AD 2023–0099 is available at *regulations.gov* by searching for and locating Docket No. FAA–2026–4662 and material required by EASA AD 2026–0040 for compliance will be available at *regulations.gov* by searching for and locating Docket No. FAA–2026–4662 after the FAA final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the

primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

The previous format of the airworthiness limitation ADs included a paragraph that specified that no alternative actions (e.g., inspections or intervals) may be used unless the actions and intervals are approved as an AMOC in accordance with the procedures specified in the AMOCs paragraph under “Additional AD Provisions.” This new format includes a “New Provisions for Alternative Actions and Intervals” paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative action or interval.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 150 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2023–22–12 to be \$7,650 (90 work-hours × \$85 per work-hour).

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

Authority for This Rulemaking

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

detail the scope of the Agency's authority.

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
- a. Removing Airworthiness Directive (AD) 2023–22–12, Amendment 39–22596 (88 FR 81342, November 22, 2023); and
 - b. Adding the following new AD:

Dassault Aviation: Docket No. FAA–2026–4662; Project Identifier MCAI–2026–00207–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by July 30, 2026.

(b) Affected ADs

This AD replaces AD 2023–22–12, Amendment 39–22596 (88 FR 81342, November 22, 2023) (AD 2023–22–12).

(c) Applicability

This AD applies to all Dassault Aviation Model FALCON 2000 airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address reduced controllability of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program, With a New Terminating Action

This paragraph restates the requirements of paragraph (j) of AD 2023–22–12, with a new terminating action. Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023–0099, dated May 11, 2023 (EASA AD 2023–0099). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2023–0099, With No Change

This paragraph restates the exceptions specified in paragraph (k) of AD 2023–22–12, with no change.

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2023–0099.

(2) Paragraph (3) of EASA AD 2023–0099 specifies revising “the approved AMP” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after December 27, 2023 (the effective date of AD 2023–22–12).

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2023–0099 is at the applicable “limitations” and “associated thresholds” as incorporated by the requirements of paragraph (3) of EASA AD 2023–0099, or within 90 days after December 27, 2023 (the effective date of AD 2023–22–12), whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2023–0099.

(5) This AD does not adopt the “Remarks” section of EASA AD 2023–0099.

(i) Retained Provisions for Alternative Actions and Intervals, With a New Exception

This paragraph restates the requirements of paragraph (l) of AD 2023–22–12, with a new exception. Except as required by paragraph (j) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections), and intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2023–0099.

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

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2026–0040, dated February 27, 2026 (EASA AD 2026–0040). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2026–0040

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2026–0040.

(2) Paragraph (3) of EASA AD 2026–0040 specifies revising the approved aircraft maintenance program (AMP) within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2026–0040 is at the applicable limitations and associated thresholds as incorporated by the requirements of paragraph (3) of EASA AD 2026–0040.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2026–0040.

(5) This AD does not adopt the “Remarks” section of EASA AD 2026–0040.

(l) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (e.g., inspections) and intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2026–0040.

(m) Additional AD Provisions

The following provisions also apply to this AD:

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

approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(n) Additional Information

For more information about this AD, contact Amanda Pieraccini, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7329; email: 9-AVS-AIR-BACO-COS@faa.gov.

(o) Material Incorporated by Reference

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

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

(3) The following material was approved for IBR on [DATE 35 DAYS AFTER PUBLICATION OF THE FINAL RULE].

(i) European Union Aviation Safety Agency (EASA) AD 2026–0040, dated February 27, 2026.

(ii) [Reserved]

(4) The following material was approved for IBR on December 27, 2023 (88 FR 81342, November 22, 2023).

(i) EASA AD 2023–0099, dated May 11, 2023.

(ii) [Reserved]

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

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

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

Issued on June 25, 2026.

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

[FR Doc. 2026–13132 Filed 6–29–26; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION**17 CFR Parts 1 and 23**

RIN 3038-AF72

SECURITIES AND EXCHANGE COMMISSION**17 CFR Parts 240 and 242**

[Release No. 34-105781; File Number S7-2026-23]

RIN 3235-AN80

Joint Request for Comment on Further Implementation of Portfolio Margining and Cross-Margining of Securities and Derivatives**AGENCY:** Commodity Futures Trading Commission; Securities and Exchange Commission.**ACTION:** Joint request for comment.

SUMMARY: The Commodity Futures Trading Commission (“CFTC”) and the Securities and Exchange Commission (“SEC”) (together, the “Commissions”) request public comment on potential ways to further implement portfolio and cross-margining of securities and derivatives that are subject to the jurisdiction of either the SEC or CFTC, or both Commissions.

DATES: Comments must be received on or before August 31, 2026.

ADDRESSES: Comments may be submitted by any of the following methods:

CFTC Comment Submission

You may submit comments, specifically referencing “Joint Request for Comment on Further Implementation of Portfolio Margining and Cross-Margining of Securities and Derivatives” and RIN 3038-AF72, by any of the following methods:

- *Regulations.gov:* Go to <https://www.regulations.gov> and press the “Search” button, then proceed as follows:

1. Under Refine Documents Results—check the box to “Only show documents open for comment”;

2. Under Agency—select “See More” and check the box for “Commodity Futures Trading Commission,” then press the Apply button;

3. Identify this proposal in the list of CFTC documents open for comment, press the “Comment” button to open the submission form, and follow the instructions on the form.

Alternatively, if you are viewing this proposal on www.federalregister.gov, click the “Submit A Public Comment” button at the top of the page to open the

comment form. Follow the instructions on the form to submit your comment to *Regulations.gov*.

- *Mail:* Send to—Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- *Hand Delivery/Courier:* Address to—CFTC Comment Submission, Attn: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

Please submit your comments using only one of these methods. To avoid possible delays with mail or in-person deliveries, submissions through *Regulations.gov* are encouraged.

All comments must be submitted in English or, if not, accompanied by an English translation. Do not include in your comment text or attachments any personal identifying information or business information that you do not want published online. Comments (regardless of submission method) will be published without review for, and without removal of, any personal identifying information or information your business may consider confidential.

If you wish to submit confidential information for the Commission’s consideration, please contact the CFTC personnel listed in this Notice under **FOR FURTHER INFORMATION CONTACT** before making any submission. Please also carefully review the Commission’s procedures in 17 CFR 145.9 for requesting confidential treatment under the Freedom of Information Act (FOIA) of information submitted to the Commission.

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, or redact all or any part of your comment submission. The CFTC also reserves the right, without further notification, to refuse to publish or to remove from public view all or any part of your submission to the extent it contains content inappropriate for publication in a comment file, such as—without limitation—obscene language, threats of violence, solicitations for commercial sales or illegal activity, or obvious spam. If a submission that is refused for or withdrawn from publication because of inappropriate content also contains comments on the merits of this proposal, such submission will be retained in the record for the matter and will be considered as required under the Administrative Procedure Act and other applicable

laws, and may be accessible under the FOIA.

SEC Comment Submission*Electronic Comments*

- Use the SEC’s internet comment form (<https://www.sec.gov/comments/s7-2026-23/joint-request-comment-further-implementation-portfolio-margining-cross-margining-securities>); or

- Send an email to rule-comments@sec.gov. Please include File Number S7-2026-23 on the subject line.

Paper Comments

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number S7-2026-23. This file number should be included on the subject line if email is used. To help the SEC process and review your comments more efficiently, please use only one method of submission. The SEC will post all comments on the SEC’s website (<https://www.sec.gov/rules-regulations/public-comments/s7-2026-23>). Do not include personally 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.

FOR FURTHER INFORMATION CONTACT:

CFTC: Stephen Andrews, Office of the General Counsel, at 202-418-5000, U.S. Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St. NW, Washington, DC 20581.

SEC: Office of Broker-Dealer Finances or Office of Clearance and Settlement, Division of Trading and Markets, at (202) 551-5777, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION:**I. Introduction**

Financial market participants are operating in an increasingly convergent financial ecosystem.¹ Financial markets are evolving rapidly and becoming more interconnected through global technologies.² New trading models,

¹ See SEC & CFTC, Memorandum of Understanding between the U.S. Securities and Exchange Commission and the U.S. Commodity Futures Trading Commission regarding Harmonization in Areas of Common Regulatory Interest (Mar. 11, 2026), available at: <https://www.sec.gov/files/mou-sec-cftc-2026.pdf>.

² See *id.*

digital infrastructure, and onchain, automated systems are increasingly blurring traditional jurisdictional lines.³

Further, market innovation continues through the development of novel securities and derivatives products. Modern securities and derivatives markets increasingly feature related positions that are subject to the jurisdiction of either the SEC or CFTC, or both Commissions.⁴ Market participants often manage portfolios or engage in trading strategies for hedging or other purposes using related positions.⁵ In this regard, market participants may increasingly employ cross-asset strategies spanning cash market securities, listed securities options, over-the-counter options on securities, futures, options on futures, and cleared and uncleared swaps and security-based swaps, and manage them dynamically and at scale. For example, a market participant may hedge a cash market security position with a related swap or future.

However, current CFTC or SEC regulations may in some cases necessitate these related positions being maintained in separate accounts subject to different margin requirements. This regulatory structure in some cases may not permit required margin computations from recognizing offsetting exposures across certain securities and derivatives, which may lead to capital inefficiencies or increase liquidity demands without necessarily enhancing market stability.

Portfolio margining generally refers to the margining of related positions in a single account, allowing netting of appropriate offsetting exposures. Portfolio margining of related positions in this manner can provide benefits to both customers and the markets. These benefits include, among other things, promoting greater efficiencies in margin calculations with respect to offsetting positions. These efficiencies can align margin requirements and other costs more closely with overall risks that a customer's portfolio presents. This alignment can reduce the aggregate amount of collateral required to meet margin requirements, facilitating the availability of excess collateral that can

be deployed for other purposes, such as supporting new trading activity. The netting of exposures allowed by portfolio margining may also help to improve efficiencies in collateral management, alleviate excess margin calls, improve cash flows and liquidity, and reduce volatility.

Over the years, the Commissions, acting independently or jointly, have facilitated the implementation of portfolio margining for different types of securities and derivatives positions, accounts, and entities. For example, in April 2026, the Commissions issued conditional exemptive orders to facilitate customer cross-margining of U.S. Treasury securities cleared by a registered clearing agency and futures positions in U.S. Treasury securities cleared by a registered derivatives clearing organization ("DCO") in a futures account.⁶ The Commissions also have each issued conditional exemptive orders to facilitate the portfolio margining of cleared swaps and security-based swaps that are credit default swaps in a segregated account established and maintained in accordance with section 4d(f) of the Commodity Exchange Act ("CEA") or a cleared swaps proprietary account.⁷

The SEC has approved portfolio margin rules under section 19(b) of the Securities Exchange Act of 1934 ("Exchange Act") for self-regulatory organizations ("SROs"), such as the Financial Industry Regulatory Authority, Inc. ("FINRA"), to implement portfolio margin rules for equity-based positions in securities portfolio margin accounts.⁸

⁶ See SEC, *Order Under Section 36 of the Exchange Act Granting Conditional Exemptive Relief from Section 15(c)(3) of and Rule 15c3-3 under the Exchange Act for Cross-Margining of Cleared U.S. Treasury Securities and Related Futures* (Exchange Act Release No. 105248 (Apr. 15, 2026), 91 FR 21035 (Apr. 20, 2026); CFTC, *Order Providing Exemptive Relief to Facilitate Cross-Margining of Customer Positions Cleared at CME and FICC* (Apr. 15, 2025), 91 FR 20880 (Apr. 20, 2026).

⁷ See SEC, *Order Granting Conditional Exemptions under the Securities Exchange Act of 1934 in Connection with the Portfolio Margining of Cleared Swaps and Security-based Swaps that are Credit Default Swaps*, Exchange Act Release No. 93501 (Nov. 1, 2021), 86 FR 61357 (Nov. 5, 2021); CFTC, *Order, Treatment of Funds Held in Connection with Clearing by ICE Clear Credit of Credit Default Swaps* (Jan. 13, 2013), CFTC, *Order, Treatment of Funds Held in Connection with Clearing by ICE Clear Europe of Credit Default Swaps* (Apr. 9, 2013); CFTC, *Order, Treatment of Funds Held in Connection with Clearing by LCH SA of Single-Name Credit Default Swaps, Including Spun-Out Component Transactions* (Nov. 1, 2021).

⁸ See FINRA Rule 4210(g); see also Cboe Rule 10.4 (Portfolio Margin) SROs have adopted portfolio margin rules for securities accounts under an exception in the Federal Reserve Board's Regulation T, which provides an exception from initial margin requirements under Regulation T for "financial

The CFTC has implemented a regulation permitting DCOs to submit for approval rules permitting commingling, in an account subject to the requirements of sections 4d(a) (futures) or 4d(f) (cleared swaps) of the CEA, of customer positions in futures, options, foreign futures, foreign options, and swaps, or any combination thereof, along with related collateral.⁹ CFTC regulations permit DCOs to allow reduction in initial margin requirements for related positions (including those involving commingled positions) where the price risks with respect to such positions are significantly and reliably correlated (including a conceptual basis for the correlation).¹⁰

Further, the Commissions also have previously respectively approved SRO or DCO rule proposals relating to portfolio margin or cross-margin programs for certain proprietary positions of broker-dealers and futures commission merchants that are joint members of a clearing agency and DCOs, certain affiliates of these firms, and market makers or other market professionals.¹¹

relations between a customer and a creditor" that comply with an SRO portfolio margin rule. 12 CFR 220.1(b)(3)(i). Eligible securities and derivatives under FINRA's portfolio margin rules (FINRA Rule 4210(g)) generally include a margin equity security, a listed option on an equity security or index of equity securities, a securities futures product, an unlisted derivative on an equity security or index of equity securities, a warrant on an equity security or index of equity securities, and a related instrument. A related instrument within a security class or product group generally means broad-based index futures and options on broad-based index futures covering the same underlying instrument. An unlisted derivative under FINRA Rule 4210(g) means any equity-based or equity index-based option, forward contract, or security-based swap that can be valued by a theoretical pricing model approved by the SEC for valuing that type of option, forward contract, or security-based swap, and that is neither traded on a national securities exchange, nor issued and guaranteed by a registered clearing agency. To date, most broker-dealers that offer customer portfolio margining in a securities account under FINRA Rule 4210 generally only portfolio margin cash market securities and options on securities.

⁹ See CFTC regulation 39.15(b)(2), 17 CFR 39.15(b)(2).

¹⁰ See CFTC regulation 39.13(g)(4), 17 CFR 39.13(g)(4).

¹¹ See e.g., SEC, *Order Granting Approval of Proposed Rule Change to Amend and Restate the Cross-Margining Agreement between Fixed Income Clearing Corporation ("FICC") and Chicago Mercantile Exchange Inc. ("CME")*, Exchange Act Release No. 98327 (Sept. 8, 2023), 88 FR 63185 (Sept. 14, 2023) [File No. SR-FICC-2023-010]; CFTC Rule Approval (CME Submission 23-301) of Amended and Restated Cross-Margining Agreement and Service Level Agreement between CME and FICC, available at: <https://www.cftc.gov/IndustryOversight/IndustryFilings/ClearingOrganizationRules/51167>; SEC, *The Options Clearing Corporation ("OCC")*, *Order Approving Proposed Rule Change To Adopt a New Second Amended and Restated Cross-Margining Agreement Between OCC and CME*, Exchange Act Release No.

³ See *id.*

⁴ The term "security" in this request for comment includes securities derivatives, such as options on securities. The term "derivative" refers to derivatives other than securities.

⁵ A related position may include a security or derivative that references the same underlying or reference asset, or positions with similar economic uses. For example, a total return swap that references the S&P 500 would be a related position to a securities option on the S&P 500, or a U.S. Treasury security could be a related position to a U.S. Treasury bond future.

In 2020, the Commissions jointly requested comment on ways to implement the portfolio margining of uncleared swaps and security-based swaps in a securities account, security-based swap account or swap account.¹² Since that time, market participants and the Commissions have gained experience in the margining of both cleared and uncleared swaps and security-based swaps.¹³

In 2020, the Commissions adopted amendments to lower the margin requirement for an unhedged security futures position¹⁴ from 20% to 15%, which customers can hold in either a securities or futures account.¹⁵

In addition, in 2021, the CFTC adopted amendments to its regulations governing bankruptcy proceedings of commodity brokers meant comprehensively to update those regulations to reflect current market practices and lessons learned from past commodity broker bankruptcies.¹⁶ Those amendments to Part 190 of CFTC

regulations included clarifications with respect to the treatment of cross-margin and portfolio margin programs.¹⁷

The further implementation of portfolio margining of securities and derivatives requires careful consideration of customer protection and other applicable regulatory objectives. The Commissions invite comments on, among other things, potential impacts on margin requirements, the segregation and bankruptcy treatment of applicable security or derivatives positions in different account types and entities, and the potential impact on regulatory capital requirements.

The SEC and CFTC have distinct approaches to segregation of customer funds, insolvency, and margin, which are based, in part, on the regulatory frameworks established for their respective markets and the nature of the securities and derivatives that are traded in those markets. As such, the Commissions invite comment on the potential expansion of portfolio margining or cross-margining beyond what is currently available under proprietary and customer portfolio margin or cross-margin programs. The Commissions welcome comment on potential costs and benefits of these distinct approaches and the impact on the markets for a particular security or derivative.

The Commissions also welcome input on how the further implementation of portfolio margining of securities and derivatives could potentially impact efficiency and competition, as well as applicable markets, market intermediaries, and customers.

Given the developments and innovations in the markets in recent years, the Commissions believe that it would be helpful to request comment and data from interested persons regarding further implementation of portfolio margining and cross-margining of securities and derivatives under the jurisdiction of the SEC, CFTC, or both Commissions.

II. Request for Comment

The Commissions are publishing a general request and specific requests for comment. In responding to the general request for comment and on the specific requests for comment below, the Commissions encourage commenters to provide empirical support for their arguments and analyses. Comments are especially helpful when accompanied by supporting data and analysis.

A. General Request for Comment

The Commissions request comment on all aspects of potential further implementation of portfolio margining and cross-margining. The Commissions seek comment on these matters generally and commenters are encouraged to address matters related to portfolio margining and cross-margining not specifically identified in the requests for comment below.

B. Specific Requests for Comment

The Commissions request comment on how the Commissions should consider (i) further expansion by DCOs and securities clearing agencies of portfolio margining and cross-margining of securities and derivatives, as well as (ii) expansion of portfolio and cross-margining of cleared and uncleared swaps and security-based swaps. The Commissions also request comment on how the Commissions should further consider the expansion of portfolio margining in a portfolio margin account carried as a securities or futures account. The Commissions also request comment on how the Commissions should consider initiatives by registrants to expand the availability of portfolio margining and cross-margining to new securities, derivatives or other assets.

1. What security or derivatives positions are market participants interested in addressing beyond the current portfolio margin and cross-margin programs available?¹⁸ Have customers expressed interest in adding any particular positions to a portfolio margining or cross-margining account? Discuss why a particular security, derivative, or other asset should be included in a portfolio margin account, and if applicable, why other particular securities, derivatives or other assets should be excluded.

2. Identify the types of accounts (*e.g.*, securities account, futures account, swap account, security-based swap account) the Commissions should consider in the further implementation of portfolio margining programs for market participants, and explain why market participants would or would not use a specific type of account for that purpose. For example, should the Commissions consider expanding the portfolio margining of futures and options on futures¹⁹ in a securities portfolio margin account, under SRO

¹⁸ See section II. of this release (describing current portfolio and cross-margining programs).

¹⁹ Current SRO securities portfolio margin rules are limited to equity-based positions. See definition of “related instrument” in FINRA Rule 4210(g)(2)(D).

90464 (Nov. 19, 2020), 85 FR 75384 (Nov. 25, 2020); Self-Certifications by OCC and CME (SR-OCC-2020-011) (20-435) of Proposed rule changes to adopt a new Second Amended and Restated Cross-Margining Agreement between OCC and CME, available at: <https://www.cftc.gov/IndustryOversight/IndustryFilings/ClearingOrganizationRules/44767>; <https://www.cftc.gov/IndustryOversight/IndustryFilings/ClearingOrganizationRules/44764>.

¹² CFTC & SEC, *Portfolio Margining of Uncleared Swaps and Non-Cleared Security-Based Swaps*, Exchange Act Release No. 90246 (Oct. 22, 2020), 85 FR 70536 (Nov. 5, 2020).

¹³ The SEC’s margin rules for security-based swaps refer to non-cleared security-based swaps. See 17 CFR 240.18a–3. For purposes of this release, the Commissions refer to swaps and security-based swaps that are not cleared by a DCO or a clearing agency collectively as “uncleared swaps and security-based swaps.”

¹⁴ See section 1a(44) of the CEA and section 3(a)(55) of the Exchange Act (both defining the term “security future”). A “security future” is distinguished from a “security futures product,” which is defined to include a security future as well as any put, call, straddle, option, or privilege on a security future. See section 1a(45) of the CEA and section 3(a)(56) of the Exchange Act (both defining the term “security futures product”). Under section 2(a)(1)(D)(iii)(II) of the CEA and section 6(h)(6) of the Exchange Act, the Commissions may, by order, jointly determine to permit the listing of options on security futures. The Commissions have not exercised this authority.

¹⁵ The Commissions jointly administer margin requirements for security futures. See 17 CFR 41.41 through 41.49 (CFTC regulations) and 17 CFR 242.400 through 242.406 (SEC regulations). See also Commissions, *Customer Margin Rules Relating to Security Futures*; Final Rule, Exchange Act Release No. 90244 (Oct. 22, 2020), 85 FR 75112 (Nov. 24, 2020) (adopting rule amendments to lower the margin requirement for an unhedged security futures position from 20% to 15%). As of June 25, 2026, there are no security futures contracts listed for trading on U.S. exchanges. Under FINRA Rule 4210(g)(6)(B)(i)c., security futures could be included in a customer securities portfolio margin account. See also 17 CFR 242.400(c)(2)(i).

¹⁶ CFTC, *Bankruptcy Regulations*; Final Rule, 86 FR 19324 (Apr. 13, 2021).

¹⁷ *Id.*

margin rules, or consider the expansion of the set of programs for the inclusion of certain securities, including options on securities or security futures, in a futures portfolio margin account?

3. While certain rules have been adopted (including SRO and DCO margin rules)²⁰ and legislation has been enacted to accommodate futures in a securities portfolio margin account and securities in a futures portfolio margin account, certain operational and other regulatory challenges may remain. Please describe actions the Commissions could consider to further support the implementation of portfolio margining in a securities or futures portfolio margin account.

4. What challenges do market participants face when considering the portfolio margining of uncleared swaps and security-based swaps?²¹ In your response, please describe and identify the type of account(s) and how these positions are being margined.

5. What challenges do market participants face when considering portfolio margining uncleared swaps and security-based swaps with other securities or derivatives positions? In your response, please describe the specific categories of securities or derivatives and the types of portfolio margin accounts.

6. Are market participants interested in exploring additional portfolio margining arrangements in cleared swaps or security-based swaps with other types of securities or derivatives beyond what is already available to customers? If so, please describe these arrangements.

7. Are there any other types of new securities, derivatives, or other assets where portfolio margining with securities or derivatives would be beneficial? If yes, please identify the category of product, the type of portfolio margin account, and the nature of the positions that would be offsetting.

8. Should the Commissions consider any other new account type (in addition to existing account types including securities accounts, futures accounts, swap accounts or security-based swap accounts) in which to support the implementation of portfolio margining or cross-margining of securities, derivatives, or other assets? If yes, please describe the account types.

9. In identifying the account types and positions where portfolio margining would be beneficial beyond what is currently available to customers and market participants,²² please identify and describe any regulatory issues market participants have encountered associated with portfolio margining or cross-margining in a specific account type relating to: (1) differences in statutes governing a particular security or derivative, (2) differences in regulatory requirements of the SEC, CFTC, SROs, clearing agencies, and DCOs (including differences in margin and segregation requirements), and (3) differences in the bankruptcy treatment of different securities, derivatives, or other assets. For example, the definitions of “customer property” and “net equity” in § 761 of the Bankruptcy Code include cash, securities, and “other property.” By contrast, the Securities Investor Protection Act of 1970 (“SIPA”) includes futures and options on futures held in a portfolio margin account that is a securities account pursuant to a portfolio margining program approved by the SEC (in addition to cash and securities) in the definition of “customer,” “customer property,” and “net equity,” but does not include swaps, security-based swaps, or any other type of property. Do these differing definitions raise regulatory issues pertaining to portfolio margining?

10. As another example of differences in bankruptcy treatment, while the bankruptcy of a DCO would proceed pursuant to Subchapter IV of Chapter 7 of the Bankruptcy Code, with specific provisions addressing the protection of customer property, the bankruptcy of a securities clearing agency would proceed pursuant to separate provisions of the Bankruptcy Code. Further, some securities clearing agencies and DCOs are also designated as systemically important financial market utilities under Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Are there additional regulatory frameworks not identified above, such as frameworks built on a foundation of Article 8 of the Uniform Commercial Code, that could be considered in connection with the potential further expansion of portfolio margining to address differences in bankruptcy treatment of DCOs and securities clearing agencies?

11. Are market participants interested in further addressing portfolio margining of foreign exchange (FX) and other securities or derivatives whose valuations may be sensitive to global

macroeconomic or geopolitical developments? In this context, do market participants have recommendations regarding safeguards or stress-testing?

12. Are market participants interested in further addressing positions that may be leveraged and that can face volatility as a result of divergence between those positions (for example, a basis trade involving cash market and futures market positions)? How should cross-margining be further addressed in that context across different asset classes?

13. Are market participants interested in further addressing securities and derivatives that are portfolio margined and have different trading hours, which could increase the probability of intraday margin calls driven by one market while others are closed?

14. Identify and describe the relative benefits and risks of further implementation of portfolio margining in different account types, as well as how the benefits and risks compare to margining under existing margin requirements. For example, how, and to what extent, might current or future portfolio margining decrease or increase market risk in certain conditions? Are there certain positions for which portfolio margining would increase or decrease market risk and if market risk would be increased in those positions, how should that risk be managed?

15. Identify and describe what types of margin methodologies may be appropriate for further implementation of portfolio margining and cross-margining by clearing agencies, DCOs, and market intermediaries (e.g., broker-dealers) to determine the appropriate margin, consistent with the applicable regulatory requirements in each of the account types commenters identify.²³ Similarly, identify and describe any considerations related to the interaction of portfolio margining and cross-margining on liquidity risk of a covered clearing agency or DCO.

16. Identify and describe any conditions the Commissions should consider with respect to the further implementation of portfolio margining

²⁰ For example, see FINRA Rule 4210(g) (portfolio margining for customers in a securities account). See also section I. of this release (describing current portfolio margin rules and programs).

²¹ See, e.g., CFTC Staff Letter 16–71 (Aug. 23, 2016) (requesting to include security-based swaps in product set for initial margin for uncleared swaps).

²² See section I. and Questions 1 and 2 above.

²³ For example, DCOs and clearing agencies use risk-based models to compute initial margin requirements for positions such as futures, options on futures, cleared swaps, cleared security-based swaps, and cleared U.S. Treasury securities, as applicable. In addition, margin calculations under SRO securities portfolio margin rules are based on the risk-based method in Appendix A to Rule 15c3–1 (the broker-dealer net capital rule). Finally, most swap dealers and security-based swap dealers use the International Swaps and Derivatives Association’s Standard Initial Margin Model or “SIMM” to compute initial margin for uncleared swaps and security-based swaps, in compliance with the Commissions’ margin rules for uncleared swaps and security-based swaps, as applicable.

programs to mitigate risk and address regulatory or operational issues. For example, discuss whether the Commissions should consider requiring certain customer disclosures or additional risk management requirements in determining whether to approve expanded portfolio margining or cross-margining programs. Discuss how a potential condition would relate to a specific account type and why it would be needed for that account. Discuss how the benefits from implementation would compare with any new costs.

17. Identify and describe any potential efficiency or competitive impacts of implementation of different portfolio and cross-margining programs that are not currently available to customers, and that market participants have indicated an interest in offering. Discuss how various portfolio and cross-margining scenarios could affect market intermediaries based on their size, business model, or registration status. For example, how would competitive impacts vary among firms registered solely as broker-dealers or futures commission merchants (or swap dealers or security-based swap dealers) and firms with multiple registrations, and how can the Commissions address any such competitive impacts?

18. As discussed above, financial markets are evolving rapidly and

becoming more interconnected through global technologies. Comments are invited about how the further expansion of portfolio margining could affect competition between U.S.-registered broker-dealers, futures commission merchants, swap dealers, security-based swap dealers, covered clearing agencies, DCOs, and foreign financial institutions, including foreign banks, foreign broker-dealers, and foreign clearing organizations that offer portfolio margining to customers.

19. Should the Commissions consider distinguishing between single-stock and narrow-based index futures in considering potential approval of further implementation of portfolio margining or cross-margining of securities and derivatives? If yes, please describe.

III. Request for Data

The Commissions encourage commenters to provide data-driven input. More specifically, the Commissions encourage commenters to provide empirical data and quantitative analysis relating to margin efficiency, collateral usage, liquidity effects, operational costs, and risk management outcomes associated with portfolio and cross-margining frameworks. Commenters are also encouraged to provide specific examples, quantitative estimates, or historical data and

scenarios illustrating how portfolio margining frameworks may affect margin requirements, collateral demands, market liquidity.

IV. Regulatory Planning and Review

This request for comment is not a significant regulatory action as defined under Executive Order 12866, as amended, and therefore it was not subject to Executive Order 12866 review.

By the Commodity Futures Trading Commission.

Dated: June 26, 2026.

Robert Sidman,
Deputy Secretary.

By the Securities and Exchange Commission.

Dated: June 26, 2026.

Vanessa A. Countryman,
Secretary.

Note: The following appendix will not appear in the Code of Federal Regulations.

Joint Request for Comment on Further Implementation of Portfolio Margining and Cross-Margining of Securities and Derivatives—CFTC Voting Summary

On this matter, Chairman Selig voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2026-13182 Filed 6-29-26; 8:45 am]

BILLING CODE 6351-01-P; 8011-01-P

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Adoption of Recommendations

AGENCY: Administrative Conference of the United States.

ACTION: Notice.

SUMMARY: The Assembly of the Administrative Conference of the United States adopted four recommendations at its hybrid (virtual and in-person) Eighty-fifth Plenary Session: Interagency Communication in Rulemaking; Best Practices for Drafting Regulatory Preambles in Light of Judicial Review; Agreements Between Agencies with Related Regulatory Responsibilities; and Effectuation of Awards of Recurring Monetary Benefits.

FOR FURTHER INFORMATION CONTACT: For Recommendation 2026–5, Adam Cline; Recommendation 2026–6, Kazia Nowacki; Recommendation 2026–7, Becaja Caldwell; and Recommendation 2026–8, Lea Robbins. For each of these recommendations the address and telephone number are: Administrative Conference of the United States, Suite 706 South, 1120 20th Street NW, Washington, DC 20036; Telephone 202–480–2080.

SUPPLEMENTARY INFORMATION: The Administrative Conference Act, 5 U.S.C. 591–596, established the Administrative Conference of the United States. The Conference studies the efficiency, adequacy, and fairness of the administrative procedures used by Federal agencies and makes recommendations to agencies, the President, Congress, and the Judicial Conference of the United States for procedural improvements (5 U.S.C. 594(1)). For further information about the Conference and its activities, see www.acus.gov.

The Assembly of the Conference met during its Eighty-fifth Plenary Session on June 11, 2026, to consider four proposed recommendations and

conduct other business. All four recommendations were adopted.

Recommendation 2026–5, *Interagency Communication in Rulemaking*, addresses how agencies communicate with each other throughout the rulemaking process—especially outside the formal interagency review processes administered by the Office of Information and Regulatory Affairs—and offers a set of best practices for agencies that promote accuracy, efficiency, and transparency. Among other topics, the recommendation addresses when and on what matters agencies should proactively seek input from other agencies, how agencies should engage with other agencies, how agencies should consider and use input received from other agencies, and what communications agencies should make part of the public rulemaking docket and administrative record for judicial review.

Recommendation 2026–6, *Best Practices for Drafting Regulatory Preambles in Light of Judicial Review*, identifies best practices for drafting rulemaking preambles in light of recent developments in how courts review agency rules. To promote improved understanding of agency decision making by the public, courts, and Congress, this recommendation identifies best practices to help agencies explain, in the preambles to proposed and final rules, how they determined their legal authority, evaluated the rulemaking record, and reached policy decisions.

Recommendation 2026–7, *Agreements Between Agencies with Related Regulatory Responsibilities*, identifies best practices to assist agencies in using, developing, managing the implementation of, and disclosing agreements between agencies that have shared, overlapping, or closely related regulatory responsibilities in a manner that promotes accuracy, fairness, efficiency, transparency, and accountability. The recommendation considers the goals that agencies seek to achieve through agreements; processes for negotiating, drafting, and structuring agreements; practices for managing and monitoring the implementation of agreements; and standards for disclosing agreements that affect members of the public.

Recommendation 2026–8, *Effectuation of Awards of Recurring*

Monetary Benefits, provides guidance to agencies that administer programs of recurring monetary benefits for effectuating payment following an award of benefits. It identifies best practices for determining benefits amounts; making payments; improving access to information; communicating effectively with claimants and representatives; promoting quality assurance practices; and using technology to promote accuracy, efficiency, timeliness, transparency, and fairness in the effectuation process.

The Conference based its recommendations on research reports and prior history that are posted at: <https://www.acus.gov/event/85th-plenary-session>.

Authority: 5 U.S.C. 595.

Dated: June 25, 2026.

Shawne C. McGibbon,
General Counsel.

Appendix—Recommendations of The Administrative Conference of The United States

Administrative Conference Recommendation 2026–5

Interagency Communication in Rulemaking

Adopted June 11, 2026

Agencies frequently communicate with each other in rulemakings. They regularly share information, experience, and expertise; provide input and feedback on draft rules; and coordinate related regulatory action, for example.¹ Such interagency communication improves the quality of rules, enhances efficiency in rulemaking, and allows for effective coordination in policymaking across the executive branch.²

Agencies communicate with one another in rulemaking for several reasons. Sometimes, Congress expressly requires interagency consultation, information sharing, or collaboration in promulgating rules.³ The President also sometimes requires interagency communication during rulemakings.⁴ Executive Order 12866,

¹ Christopher Carrigan, *Interagency Communication in Rulemaking 8–10* (May 18, 2026) (report to the Admin. Conf. of the U.S.).

² See Admin. Conf. of the U.S., *Recommendation 2012–5, Improving Coordination of Related Agency Responsibilities*, 77 FR 47810 (Aug. 10, 2012).

³ See, e.g., 7 U.S.C. 136s (requiring the Administrator of the Environmental Protection Agency to “solicit the views of” the Secretary of Agriculture and the Secretary of Health and Human Services before publishing regulations under the Federal Insecticide, Fungicide, and Rodenticide Act).

⁴ See, e.g., Exec. Order No. 13984, 86 FR 6837 (Jan. 19, 2021) (requiring the Secretary of Commerce

Regulatory Planning and Review, requires most agencies to submit regulatory actions that are deemed “significant” to the Office of Information and Regulatory Affairs (OIRA) for formal interagency review, which includes a process for addressing conflicts between agencies.⁵ Agencies also often seek advice, information, and expertise from other agencies on their own initiative, especially from agencies with related regulatory missions and activities. Interagency communication is essential when agencies have shared, overlapping, or closely related regulatory authority or priorities.⁶

Interagency communication occurs at all stages of rulemaking, from regulatory planning and the earliest discussions of a potential rule through notice and comment and the adoption of a final rule. Discussions between agencies can be particularly useful early in the rulemaking process—before a rule is drafted, for example—to gain additional subject-matter expertise, ascertain the effectiveness of a potential rule, evaluate regulatory alternatives,⁷ and identify potential effects on other agencies.

What form these communications take depends on whether communication is required, the reason for communicating, and the stage of the rulemaking. Most interagency communication in rulemaking is informal, ad hoc, and based upon preexisting relationships between counterparts across agencies. For example, rule drafters at one agency might meet informally or share notes with colleagues at another agency to evaluate the effectiveness of a potential rule or to gain subject-matter expertise.

Agencies use more formal methods of communication, including structured planning meetings and cross-agency working groups, particularly when they engage in joint rulemaking or when a rule involves an area over which multiple agencies have regulatory jurisdiction.⁸ As discussed in a previous recommendation of the Administrative Conference, such formal methods may be especially useful for agencies that have shared, overlapping, or closely related regulatory authority and priorities.⁹ Additionally, agencies sometimes enter into binding or nonbinding agreements that require or contemplate communication in rulemaking.¹⁰ Agencies also occasionally

to consult with other specific federal agencies before proposing certain regulations related to malicious cyber activities).

⁵ See Exec. Order No. 12866, 58 FR 51735 (Sept. 30, 1993), *amended by* Exec. Order No. 14215, 90 FR 10447 (Feb. 24, 2025) (expanding this review and coordination process to include independent regulatory agencies). This Recommendation focuses on interagency communication outside of the OIRA interagency review process.

⁶ Carrigan, *supra* note 1, at 20, 24–28.

⁷ See Admin. Conf. of the U.S., Recommendation 2021–3, *Early Input on Regulatory Alternatives*, 86 FR 36082 (July 8, 2021).

⁸ Carrigan, *supra* note 1, at 28–29.

⁹ Recommendation 2012–5, *supra* note 2.

¹⁰ Carrigan, *supra* note 1, at 11–13. Another Conference recommendation addresses agreements between agencies with related regulatory responsibilities. See Admin. Conf. of the U.S., Recommendation 2026–7, *Agreements Between Agencies with Related Regulatory Responsibilities*, 91 FR __ (2026).

submit comments in response to rules proposed by other agencies.¹¹

When an agency communicates with another agency during a rulemaking, it must consider how to use the information provided by the other agency and how, if appropriate, to address the information in the proposed or final rule. The agency also decides whether to include such communications in the public rulemaking docket and, if the rule is challenged in court, in the administrative record for judicial review.¹² In some cases, agencies may be required to disclose interagency communications. A statute or presidential directive may require the disclosure, for example, or the communication may include “critical factual material” that supports effective public participation or judicial review.¹³ In other circumstances, agencies may disclose interagency communications on their own initiative. For example, although many interagency communications in rulemaking are exempt from disclosure under the Freedom of Information Act,¹⁴ agencies sometimes disclose interagency communications to promote transparency, show that they followed required procedures, or support their position that they engaged in reasoned decision making.

In Recommendation 80–6, *Intragovernmental Communications in Informal Rulemaking*, the Conference concluded that agencies generally should “be free to receive written or oral policy advice and recommendations” from other agencies without having a duty to place them in the public rulemaking docket. The Conference recommended, however, that agencies should promptly place in the public rulemaking docket all intragovernmental communications that contain “material factual information” pertaining to or affecting a proposed rule.¹⁵

In this Recommendation, the Conference more broadly encourages agencies to communicate with one another throughout the rulemaking process, especially early in regulatory planning and rule drafting. It encourages agencies to promote informal

communication with other agencies, consistent with common agency practice, while also contemplating situations where standardizing communications would be more beneficial. It provides best practices for determining when in the rulemaking process and on what matters agencies should proactively seek input from other agencies, how agencies should consider feedback received from other agencies, and when interagency communications should be made part of the public rulemaking docket and administrative record for judicial review. It also recommends that agencies develop internal policies to guide agency personnel on whether, when, and how to communicate with other agencies throughout the rulemaking process.

Recommendation

Proactively Engaging in Interagency Communication

1. Agencies should proactively solicit input on their draft or planned rules, as early as practicable, from other agencies that:
 - a. Are statutorily required to communicate or coordinate on the relevant rulemaking;
 - b. Are directed to communicate or coordinate on the relevant rulemaking by the President or an interagency agreement;
 - c. Have shared, overlapping, or closely related, regulatory authority or priorities;
 - d. Have regulatory schemes that could be significantly affected by a draft or planned rule;
 - e. Have relevant expertise in, or resources relating to, the subject or structure of a draft or planned rule; or
 - f. Are parties to a binding or nonbinding agreement that contemplates interagency communication or coordination in rulemaking.
2. Agencies should monitor entries in the Unified Agenda of Regulatory and Deregulatory Actions for planned rules that may significantly overlap with their own regulatory missions and activities and, when appropriate, should proactively offer pre-proposal feedback on these planned rules.

Facilitating Interagency Communication

3. Officials involved in rulemaking should, when appropriate, communicate informally with colleagues from other agencies throughout the rulemaking process. Such informal communication may be especially beneficial when an agency is:
 - a. Discussing upcoming regulatory activities or coordinating regulatory agendas;
 - b. Determining the workability of a potential rule, potential regulatory alternatives, and potential effects that the rule may have on other agencies; or
 - c. Seeking information or expertise from another agency that has relevant knowledge of the regulatory area at issue.
4. If agencies communicate frequently in rulemaking on an informal basis, they should consider compiling lists of agency contacts on particular topics or conducting periodic interagency meetings.
5. Agencies that communicate with other agencies during the drafting or development of a rule—particularly those that have shared, overlapping, or closely related regulatory authority or priorities—should consider

¹¹ See, e.g., *Nat'l Wildlife Fed'n v. Andrus*, 440 F. Supp. 1245, 1253 (D.D.C. 1977); see also Daniel A. Farber & Anne Joseph O'Connell, *Agencies as Adversaries*, 105 Calif. L. Rev. 1375, 1457–60 (2017).

¹² The “public rulemaking docket” is “the public version of the rulemaking record managed by the agency” and includes “all information that has been made available for public viewing” in connection with the rule. Admin. Conf. of the U.S., Recommendation 2013–4, *Administrative Record in Informal Rulemaking*, 78 FR 41358, 41359 (July 10, 2013). The “administrative record for judicial review” means “the materials tendered by the agency and certified to a court on review of the agency’s regulatory action.” *Id.*

¹³ See, e.g., *Ass’n of Data Processing Serv. Orgs. v. Bd. of Governors*, 745 F.2d 677, 684 (D.C. Cir. 1984); see also Admin. Conf. of the U.S., Recommendation 2013–4, *supra* note 12.

¹⁴ 5 U.S.C. 552(b)(5) (permitting agencies to withhold “inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than agency in litigation with the agency”).

¹⁵ Admin. Conf. of the U.S., Recommendation 80–6, *Intragovernmental Communications in Informal Rulemaking*, 45 FR 86407 (Dec. 31, 1980).

reconvening after the comment period to clarify specific issues, review public comments, and discuss potential responses.

Receiving Interagency Feedback

6. Agencies should evaluate all substantive feedback received from other agencies on a draft or proposed rule and should consider revising the rule, as appropriate, based on the feedback received. Agencies should give particular attention to feedback from another agency when that agency:

- a. Provides feedback pursuant to a statutory requirement, presidential directive, or interagency agreement;
- b. Has shared, overlapping, or closely related regulatory authority or priorities;
- c. Has significant expertise in the subject of the rulemaking; or
- d. Provides data or opinions relevant to the rulemaking that conflict with the drafting agency's findings.

7. When an agency receives substantive feedback from another agency or agencies on a draft or proposed rule but chooses not to revise the rule in response, it should inform the other agency or agencies why the feedback was not incorporated into the proposed or final rule.

Managing Interagency Communication in the Public Rulemaking Docket and Administrative Record for Judicial Review

8. When determining whether to include specific interagency communications in the public rulemaking docket or administrative record for judicial review, agencies should consider the different legal standards that apply in those contexts. Factors that may be relevant include:

- a. Whether disclosure is either required or prohibited by law;
- b. Whether the other agency intended for its communication to be treated as a public comment or has otherwise consented to public disclosure of its communication;
- c. Whether the interagency communication informed the proposed or final rule;
- d. Whether an interagency communication was required by statute, directed by the President, or made under an interagency agreement;
- e. Whether the communication contained "material factual information" consistent with Recommendation 80–6,

Intragovernmental Communication in Informal Rulemaking;

- f. Whether the interagency communication occurred before the notice of proposed rulemaking was published;
- g. Whether its inclusion would enhance transparency in the administrative process;
- h. Whether its inclusion would undercut the free-flowing exchange of feedback and information between agencies in rulemaking; and
- i. Whether the interagency communication merely repeats or instead supplements information that is available elsewhere in the public docket.

9. When deciding whether to disclose a particular interagency communication in the public rulemaking docket or administrative record, agency personnel should consult their legal counsel within their agency—and, as appropriate, the Department of Justice—to

assess the potential legal risks and benefits associated with disclosure.

10. When agencies decide not to disclose interagency communications or identify the agencies with which they communicated, they should nonetheless explain in relevant rulemaking documents the key insights drawn from these communications as they relate to the rationale for a rule.

Developing Policies for Interagency Communication

11. Agencies should develop, and keep up to date, internal written policies regarding whether, when, and how to communicate with other agencies in the rulemaking process. In developing such policies, agencies should consider the following:

- a. Any statutes, binding or nonbinding agreements, or presidential directives addressing interagency communication in rulemaking;
- b. Areas of shared, overlapping, or closely related regulatory authority or priorities that might require, or benefit from, engagement with other agencies;
- c. Whether an interagency communication should or must assume a specific form (e.g., consultation, coordination, interagency commenting);
- d. Whether and when deviations from such policies might be appropriate;
- e. How the rulemaking agency determines whether an interagency communication should be disclosed in the public rulemaking docket or administrative record for judicial review;
- f. The stage of a rulemaking at which communications with other agencies would be most beneficial;
- g. Feasible alternatives to placing interagency communications in the docket, such as including a redacted version or creating a separate document that contains only the factual information extracted from the communication;
- h. Informing agencies that their communications may be included in the docket or administrative record; and
- i. How to facilitate disclosure without discouraging interagency communication in rulemaking.

Administrative Conference Recommendation 2026–6

Best Practices for Drafting Regulatory Preambles in Light of Judicial Review

Adopted June 11, 2026

There are two key documents associated with notice-and-comment rulemaking: the notice of proposed rulemaking (NPRM) and the final rule.¹ In addition to the text of proposed and final rules, both types of documents typically include a section, commonly referred to as a preamble,² that

¹ Although this Recommendation is limited to notices of proposed rulemaking and final rules, agencies may wish to take many of this Recommendation's provisions into account when drafting other materials, including advance notices of proposed rulemaking, requests for information, policy statements, interpretive rules, and orders and opinions made in the adjudication of cases.

² Under Office of the Federal Register rules, "[e]ach agency submitting a proposed or final rule

provides an explanation for the agency's proposal or decision.

The Administrative Procedure Act (APA) dictates what information agencies are required to include in these key documents, and agencies often include this required information in preambles. An NPRM must include:

- (1) a statement of the time, place, and nature of the proposed rulemaking proceedings; (2) a reference to the legal authority under which the rule is proposed; (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved; and (4) the internet address of a [brief, plain-language summary] of the proposed rule[.]³

A final rule must include a "concise general statement of [the rule's] basis and purpose."⁴ If the agency for "good cause" found that notice and public procedure was "impracticable, unnecessary, or contrary to the public interest," the final rule must also include a brief statement of reasons as to why.⁵

Other statutes,⁶ executive orders,⁷ judicial decisions,⁸ and rules governing publication in the **Federal Register**⁹ also dictate what agencies must include in preambles. Contents range from simple and routine matters (e.g., contact information, instructions for submitting written comments) to technical and complex matters (e.g., analysis of expected benefits and costs,¹⁰ analysis of regulatory alternatives,¹¹ responses to significant public comments¹²).

Regulatory preambles serve several objectives and speak to several audiences. They promote transparency in agency decision making by offering agencies an

document for publication shall prepare a preamble which will inform the reader, who is not an expert in the subject area, of the basis and purpose for the rule or proposal." 1 CFR 18.12.

³ 5 U.S.C. 553(b).

⁴ *Id.* § 553(c).

⁵ *Id.* § 553(b)(4)(B); see also Admin. Conf. of the U.S., Recommendation 2024–6, *Public Engagement in Agency Rulemaking Under the Good Cause Exemption*, 89 FR 106508 (Dec. 30, 2024).

⁶ See, e.g., 2 U.S.C. 1532(b) (requiring analysis of the impact of proposed and final rules on state, local, and tribal governments); 5 U.S.C. 603–604 (requiring analysis of the impact of proposed and final rules on small entities); 44 U.S.C. 3507(d) (requiring an explanation of how any collection of information responds to comments).

⁷ See generally *Rulemaking Requirements from the Executive Office of the President*, in Admin. Conf. of the U.S., Fed. Admin. Procedure Sourcebook, https://sourcebook.acus.gov/wiki/Rulemaking_Requirements_from_the_Executive_Office_of_the_President (last updated April 6, 2026).

⁸ See, e.g., *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983).

⁹ See, e.g., 1 CFR 18.12 (general requirements), 51.5 (incorporation by reference); see generally Nat'l Archives & Records Admin., Off. of the FR, *Federal Register Document Drafting Handbook 2.4* (Aug. 2018 ed., rev. 2.2 2025), <https://www.archives.gov/files/federal-register/write/handbook/ddh.pdf>.

¹⁰ See, e.g., Exec. Order No. 12866 § 6(a)(3), 58 FR 51735, 51741–42 (Oct. 4, 1993).

¹¹ See *State Farm*, 463 U.S. at 48–51.

¹² See *Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 96 (2015).

opportunity to identify publicly the legal basis for and purpose of their rules and explain how rules will achieve policy objectives. Relatedly, preambles facilitate public participation in rulemakings by offering interested persons detailed explanations of the law and facts that agencies considered and the findings and conclusions they reached. Preambles also invite feedback from interested persons on particular issues raised by a proposed rule, such as the choice among alternative approaches. Preambles also provide guidance prospectively to officials charged with administering rules and persons affected by them. In addition, preambles support oversight and review by the Executive Office of the President and Congress.

Preambles are also important for judicial review of agency rules. When courts review rules, they often must assess the agency's interpretation of relevant statutes and the agency's exercise of delegated discretionary authority.¹³ Courts may also assess the reasonableness of the rule in light of how the agency considered public comments¹⁴ and regulatory alternatives,¹⁵ any justifications for changes in policy that the rule represents,¹⁶ and the rule's consistency with longstanding agency practice.¹⁷

In several recent decisions, the Supreme Court has explained how courts should consider these questions in three areas: the appropriate deference to an agency's statutory interpretation, the major questions doctrine, and the doctrine governing agency changes in position. In *Loper Bright Enterprises v. Raimondo*, the Court held that courts should “exercise independent judgment in determining the meaning of statutory provisions.”¹⁸ The Court explained, citing *Skidmore v. Swift & Co.*, that in exercising such judgment, courts may “seek aid from the interpretations of those responsible for implementing particular statutes.”¹⁹ The Court noted further that “interpretations issued contemporaneously with the statute at issue, and which have remained consistent over time, may be especially useful in determining the statute's meaning.”²⁰ The Court also stated that the best interpretation of a statute “may well be that the agency is authorized to exercise a degree of discretion,” such as when a statute “‘expressly delegate[s]’ to an agency the authority to give meaning to a particular statutory term,” “‘empower[s] an agency to prescribe rules to ‘fill up the details’ of a statutory scheme,” or “‘regulate subject to the limits imposed by a term or phrase that ‘leaves agencies with flexibility,’ . . . such as ‘appropriate’ or ‘reasonable.’”²¹

The Supreme Court has defined the major questions doctrine across several cases, but the doctrine continues to evolve. Under some formulations of the doctrine, an agency must point to “clear congressional authorization” in “cases in which the ‘history and the breadth of the authority that [the agency] has asserted’ and the ‘economic and political significance’ of that assertion, provide a ‘reason to hesitate before concluding that Congress’ meant to confer such authority.”²² In determining whether a matter falls under the major questions doctrine, some courts look at past agency practices and regulatory antecedents, whether the agency's role has changed, and whether the agency has gone beyond the domain in which it exercises expertise.²³

The Supreme Court has also held that when a reviewing court finds that an agency has changed its existing policy, it must determine whether the agency displayed “awareness that it [was] changing position” and offered “good reasons for the new policy.”²⁴ In determining whether good reasons exist for the new policy, a reviewing court may consider whether facts have changed or the reasons why the agency has come to a different conclusion.²⁵ A reviewing court may also assess whether the agency has considered reliance interests.²⁶

Because a preamble is part of the whole record on judicial review²⁷ and provides an authoritative, contemporaneous rationale for the rule,²⁸ reviewing courts often consider preambles to resolve, among other questions, whether an agency had legal authority to adopt a rule and acted reasonably in adopting it.²⁹

Addressing the various objectives that preambles serve, the Conference has, in prior recommendations, encouraged agencies to consider discussing important matters in preambles such as frameworks for retrospective review and paperwork burdens associated with the collection of data to facilitate retrospective review;³⁰ consideration of regulatory alternatives;³¹

cost-benefit analysis;³² severability;³³ consultation with state, tribal, and local governments;³⁴ evaluation of scientific information;³⁵ ex parte communications;³⁶ consideration of mass, computer-generated, and falsely attributed comments;³⁷ the duration of temporary rules;³⁸ the use of contractors to perform rulemaking-related functions;³⁹ and the timing of significant “midnight rules.”⁴⁰ The Conference has also recommended that agencies provide user-friendly summaries of complex preambles,⁴¹ use plain-language best practices and writing techniques when drafting preambles,⁴² and include section-by-section analyses of final rules.⁴³

This Recommendation builds on these earlier recommendations by offering additional best practices for drafting regulatory preambles that take into account recent decisions by the Supreme Court governing the review of agency statutory interpretations and exercises of policymaking discretion. The Conference recognizes that because regulatory preambles serve many objectives beyond facilitating judicial review, agencies must balance different goals in drafting them. The Conference also recognizes that the best practices that follow may not be appropriate in all rulemakings. For example, in routine rulemakings in areas in which an agency has established legal authority, some of the best practices identified may be less relevant or be outweighed by other considerations. Agencies should account for their specific circumstances when implementing this Recommendation.

³² Admin. Conf. of the U.S., Recommendation 2013–2, *Benefit-Cost Analysis at Independent Regulatory Agencies*, ¶¶ 7–8, 78 FR 41355, 41356–57 (July 10, 2013).

³³ Admin. Conf. of the U.S., Recommendation 2018–2, *Severability in Agency Rulemaking*, 83 FR 30685 (June 29, 2018).

³⁴ Admin. Conf. of the U.S., Recommendation 2025–2, *Consultation with State, Local, and Tribal Governments in Regulatory Policymaking*, ¶ 11, 90 FR 27517, 27519 (June 27, 2025).

³⁵ Admin. Conf. of the U.S., Recommendation 2013–3, *Science in the Administrative Process*, ¶ 1, 78 FR 41357, 41358 (July 10, 2013).

³⁶ Admin. Conf. of the U.S., Recommendation 2014–4, “Ex Parte” Communications in Informal Rulemaking, ¶ 5(a), 79 FR 35993, 35995 (June 25, 2014).

³⁷ Admin. Conf. of the U.S., Recommendation 2021–1, *Managing Mass, Computer-Generated, and Falsely Attributed Comments*, 86 FR 36075 (July 8, 2021).

³⁸ Admin. Conf. of the U.S., Recommendation 2026–2, *Temporary Rules*, ¶ 4, 91 FR 6173, 6175 (Feb. 11, 2026).

³⁹ Admin. Conf. of the U.S., Recommendation 2022–1, *Contractors in Rulemaking*, ¶ 8, 87 FR 39798, 39799 (July 5, 2022).

⁴⁰ Admin. Conf. of the U.S., Recommendation 2012–2, *Midnight Rules*, ¶ 3, 77 FR 47802, 47803 (Aug. 10, 2012).

⁴¹ Admin. Conf. of the U.S., Recommendation 2013–5, *Social Media in Rulemaking*, ¶ 12, 78 FR 76269, 76271 (Dec. 17, 2013).

⁴² Admin. Conf. of the U.S., Recommendation 2017–3, *Plain Language in Regulatory Drafting*, ¶ 6, 82 FR 61728, 61730 (Dec. 29, 2017).

⁴³ Admin. Conf. of the U.S., Recommendation 2014–3, *Guidance in the Rulemaking Process*, ¶¶ 1–4, 79 FR 35992, 35993 (June 25, 2014).

¹³ Cf. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394–95 (2024).

¹⁴ Cf. *Ohio v. EPA*, 603 U.S. 279, 292–94 (2024).

¹⁵ Cf. *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30–33 (2020).

¹⁶ Cf. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 514–15 (2009).

¹⁷ Cf. *West Virginia v. EPA*, 597 U.S. 697, 726–28 (2022).

¹⁸ *Loper Bright*, 603 U.S. at 394.

¹⁹ *Id.* (citing 323 U.S. 134, 140 (1944)).

²⁰ *Id.*

²¹ *Id.* at 394–95.

²² *West Virginia*, 597 U.S. at 721, 723; see also *Learning Resources, Inc. v. Trump*, 607 U.S. (2026); *Biden v. Nebraska*, 600 U.S. 477 (2023).

²³ See Daniel T. Deacon, *Drafting Regulatory Preambles* (May 11, 2026) (report to the Admin. Conf. of the U.S.).

²⁴ *FDA v. Wages & White Lion Invs., L.L.C.*, 604 U.S. 542, 570 (2025) (quoting *FCC v. Fox Television Studios, Inc.*, 556 U.S. 502, 515 (2009)).

²⁵ See, e.g., *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 41–42 (1983).

²⁶ See, e.g., *id.*; *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30 (2020).

²⁷ See 5 U.S.C. 706.

²⁸ Cf. *SEC v. Chenery Corp.*, 318 U.S. 80, 87 (1943).

²⁹ See Deacon, *supra* note 23.

³⁰ Admin. Conf. of the U.S., Recommendation 2014–5, *Retrospective Review of Agency Rules*, ¶¶ 2–3, 79 FR 75114, 75116 (Dec. 17, 2014).

³¹ Admin. Conf. of the U.S., Recommendation 2021–3, *Early Input on Regulatory Alternatives*, ¶ 7, 86 FR 36082, 36083 (July 8, 2021).

Recommendation

Explaining Agency Interpretations of Statutes

1. When an agency proposes or adopts a rule, the agency should identify in the preamble the statute under which the rule is proposed or adopted and explain why the proposed or final rule is consistent with the best interpretation of the statute, using the full range of relevant interpretive tools. In explaining its interpretation, the agency should address, when relevant, factors that may include:

- a. How the agency's interpretation of the statute coheres with the statutory text and structure, advances statutory purposes, is informed by legislative history, produces sound results, and otherwise makes sense when placed in the full statutory context;
- b. Whether the agency interprets the statute as delegating discretionary authority to the agency;
- c. How the agency interprets the boundaries of any delegated discretionary authority;
- d. How the agency resolved any factual or empirical questions to arrive at its interpretation of the statute; and
- e. How the agency's current interpretation of the statute is consistent with its past interpretation of the statute or, conversely, why the agency is departing from its prior interpretation of the statute.

2. When an agency relies on delegated discretionary authority when proposing or adopting a rule, it should identify in the preamble what statutory provisions are the source of that express or implied delegated discretionary authority and how the best readings of those provisions support the agency's exercise of that delegated discretionary authority.

3. When an agency explains in the preamble to a proposed or final rule how its current interpretation of a statute is consistent with its past interpretation of the statute, it should draw from relevant past agency actions. A broad range of past agency actions may be relevant, including guidance documents, orders and opinions made in the adjudication of cases, and agency positions in litigation. When there is no prior interpretation that matches the current interpretation, the agency should consider citing analogous interpretations or other evidence of past practice that reveals an interpretation of the statute that is consistent with the agency's current interpretation.

4. When an agency departs from its prior interpretation of a statute in proposing or adopting a rule, it should explain in the preamble why the revised interpretation represents the best interpretation of the statute (see Paragraph 1) and, when appropriate, explain the departure by discussing, for example, why the agency's prior interpretation:

- a. Did not accord with the best interpretation of the statute;
- b. Proved unworkable;
- c. Frustrated statutory purposes; or
- d. Caused unsound results.

5. If a major questions issue arises when an agency is developing a rule or is invoked by a comment received in response to a notice of proposed rulemaking, and if the agency

determines it should address the issue, the agency should explain in the preamble to the proposed or final rule why the rule does or does not raise a major questions concern. In doing so, the agency should address as necessary the full range of factors that a reviewing court may consider in resolving a major questions challenge, including but not limited to:

- a. The text of the statute;
- b. Regulatory antecedents for the rule, explaining how closely such antecedents match the current rule;
- c. The scope of the rule; and
- d. The costs and burdens associated with the rule.

Demonstrating the Reasonableness of Agency Rules

6. An agency should explain in the preamble to a proposed or final rule why it is proposing or adopting a rule. In doing so, the agency should explain, as appropriate:

- a. What criteria the agency considered in developing the rule and why those criteria are appropriate under the statute;
- b. How the rule comports with the statutory text;
- c. How the rule advances statutory objectives;
- d. Why the rule is preferable to the status quo;
- e. Why its choices would be justified under alternative decisional criteria (e.g., if it was required to consider implementation costs and if it was not); and
- f. Whether the agency relies on predictive judgments formed on the basis of incomplete evidence, without claiming more certainty than is appropriate.

7. In the preamble to a final rule, an agency should respond to significant comments it received during the notice-and-comment process that might persuade a court to hold that the agency's action would be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. For example, significant comments to which the agency should respond include well-reasoned and factually supported comments that argue that the agency:

- a. Failed to consider statutorily relevant factors;
- b. Overlooked a significant issue;
- c. Failed to consider relevant evidence; or
- d. Failed to explain why it did not adopt a potentially viable alternative.

The agency may also wish to incorporate suggestions in the comments that it believes will support the rule or the analysis supporting the rule.

8. An agency should explain in the preambles to a proposed and final rule whether and how it considered significant alternatives to its chosen course of action.

9. When proposing to rescind or rescinding a rule with multiple components, an agency should, as appropriate, explain in the preamble the justification for rescinding all or part of the rule.

10. When a proposed or final rule represents a change in policy, an agency should identify the policy change in the preamble to the proposed or final rule and explain why the new policy is justified. In doing so, the agency should explain, as appropriate:

- a. Why the facts underlying the previous policy have changed, why the agency was wrong about the facts it previously found, or why, even on the same facts, the agency is now coming to a different conclusion;
- b. Why the agency interprets the law differently; and
- c. How the agency considered significant reliance interests.

Administrative Conference Recommendation 2026-7

Agreements Between Agencies With Related Regulatory Responsibilities

Adopted June 11, 2026

There are many contexts, ranging from food safety to financial regulation, in which agencies have shared, overlapping, or closely related regulatory responsibilities. Effective interagency coordination is critical in such "shared regulatory space."¹ Greater coordination can avoid duplication of effort, provide opportunities for agencies to manage and reconcile differences, and improve the overall quality of agency decision making. As the Administrative Conference recognized in Recommendation 2012-5, *Improving Coordination of Related Agency Responsibilities*, agreements between agencies—often styled "memoranda of understanding"—provide an important tool for promoting and facilitating coordination.²

Hundreds of agreements exist between agencies that operate in shared regulatory space. These agreements serve many purposes, including formalizing shared objectives for implementing policies and programs, clarifying roles, allocating responsibilities, delineating jurisdictional lines, developing policies and standards, coordinating policymaking and enforcement activities, establishing processes for information sharing and responding to external requests for information, coordinating multiagency processes of approvals or reviews, sharing resources (when permitted), and resolving disputes.³

While agreements between agencies are common, there is no uniform or coordinated framework for initiating and negotiating them, or for managing and monitoring their implementation. For the most part, agencies are afforded broad discretion as to whether they enter into agreements and, when they do, how they formalize them.

Building on Recommendation 2012-5, this Recommendation provides best practices for developing agreements and managing their implementation between agencies that have shared, overlapping, or closely related regulatory responsibilities. It encourages agencies to adopt practices for initiating and structuring agreements, and for monitoring their implementation, that promote efficiency, effectiveness, and accountability.

¹ Jody Freeman and Jim Rossi, *Improving Coordination of Related Agency Responsibilities* 7-8 (May 30, 2012) (report to Admin Conf. of the U.S.).

² Admin. Conf. of the U.S., *Recommendation 2012-5, Improving Coordination of Related Agency Responsibilities*, 77 FR 47810 (Aug. 10, 2012).

³ Blaine G. Saito, *Agreements Between Agencies with Related Regulatory Responsibilities* 4-8 (May 12, 2026) (report to the Admin. Conf. of the U.S.).

It also recommends that agencies disclose agreements that affect members of the public.⁴ In doing so, the Recommendation recognizes that agencies must consider their own circumstances in adopting the best practices that follow. Agencies have different missions, authorities, needs, and resources available to them, and they enter into agreements for different reasons. Reflecting this variability, effective agreements can take many forms.

Recommendation

Negotiating and Drafting Agreements

1. Agencies that have shared, overlapping, or closely related regulatory responsibilities should enter into written agreements when doing so would promote efficiency, effectiveness, and accountability. Agencies should consider entering into such agreements, especially when agencies would benefit from:

- a. Formalizing shared objectives for implementing policies and programs;
- b. Clarifying roles and allocating responsibilities;
- c. Delineating jurisdictional lines;
- d. Coordinating multiagency review or approval processes;
- e. Establishing procedures for sharing information between agencies or responding to external requests for information;
- f. Coordinating policymaking and enforcement activities;
- g. Sharing resources, when permitted; and
- h. Resolving disputes.

2. Before negotiating agreements, agencies should review available information and engage in initial discussions to understand other relevant agencies' regulatory responsibilities, priorities, processes, policies, and expectations for the relationship.

3. Agencies should ensure that the officials with the relevant decision-making authority and legal and subject-matter expertise with respect to the agreement are involved throughout the process of negotiating the agreement. As appropriate, agencies should also include their officials involved in information management and budget planning.

4. Agencies should address the following subjects in an agreement, as applicable:

- a. The relevant mission, authority, and capacity of each signatory agency;
- b. The purposes and objectives of the agreement;
- c. The allocation of responsibilities, particularly if the agreement involves more than two agencies (see Paragraph 6);
- d. Mechanisms for coordinating activities under the agreement;
- e. Resources to be shared between agencies (e.g., personnel, funding, facilities) and other agreements related to resource sharing;
- f. Protocols for information sharing and records management;
- g. Procedures for resolving disputes that arise under the agreement;

h. Progress metrics for assessing the effectiveness of the agreement; and

i. A sunset or termination date, or another provision that commits signatory agencies to review the agreement regularly to determine whether it continues to be of value.

Managing and Monitoring the Effectiveness of Agreements

5. Agencies should designate an official with primary responsibility for managing and monitoring the implementation of the agreement.

6. When three or more agencies are parties to an agreement, agencies should delineate clear roles and responsibilities to support the effective coordination, management, and monitoring of joint activities under the agreement throughout its implementation (see Paragraph 4 (c)). This delineation may include:

- a. Identifying a lead agency based on, for example, the circumstances of the agreement, such as when one agency is more affected by the activities;
- b. Appointing co-leads; or
- c. Establishing a coordinating group comprising officials from all signatory agencies.

7. Agencies periodically should review the effectiveness of agreements to which they are a party and adjust strategies, timelines, or responsibilities under the agreement, as appropriate.

8. To facilitate coordination among agency personnel and ensure continuity of operations, agencies should develop or maintain repositories of agreements with other agencies and related records and information.

Making Agreements Publicly Available

9. Agencies should make agreements that affect members of the public, and any associated materials, publicly available unless disclosure, even after redaction, would adversely affect sensitive or legally protected interests involving, among other things, national security or law enforcement. Agencies should develop and maintain a centralized repository on their websites that provides easy access to such agreements and any associated materials.

Administrative Conference Recommendation 2026–8

Effectuation of Awards of Recurring Monetary Benefits

Adopted June 11, 2026

Federal agencies administer an array of programs that provide recurring (rather than lump-sum or one-time) payments to individuals who meet specific requirements for eligibility. Individuals may be eligible for monetary benefits, typically monthly, under these programs if, for example, they are unable to work due to an injury or illness,¹

¹ Such programs include Social Security Disability Insurance, administered by the Social Security Administration (SSA); the Railroad Retirement Program, administered by the Railroad Retirement Board; and the Federal Employees Compensation Program, the Longshore and Harbor Workers' Compensation Program, the Federal Black Lung Program, and the Energy Employees

sustained an illness or injury in the line of duty,² or have retired or reached age 65.³ Benefits may be calculated using fixed rates, individual contributions, or means testing.⁴

Under most of these programs, a decision maker first determines whether the claimant meets the relevant eligibility requirements. Subsequently, the agency communicates the determination to the claimant. If the decision maker finds that the claimant is eligible to receive benefits, the agency then takes steps to process payment, which this Recommendation refers to as “effectuation.”

Although agency processes for effectuating awards of monetary benefits vary across—and sometimes within—agencies, there are similarities in the actions agencies undertake. For example, once a decision maker has found a claimant eligible to receive benefits, the determination may need to be transferred from the decision maker to another employee or agency component responsible for effectuating the decision, referred to here as the “effectuator.”⁵

In some cases, particularly if the claim is awarded after a hearing or on appeal, the decision-making and effectuation functions are conducted by separate employees or separate components.⁶ In other cases, typically those involving claims awarded by frontline decision makers, the same employee who determined eligibility is also responsible for effectuating the decision. However, in these instances, agencies tend to require that another employee review and finalize the payment in order to complete the effectuation process. This additional review functions as a built-in quality review mechanism.⁷

Once a claim is with an effectuator, several determinations must be made to process payments accurately. Depending on the program, the effectuator may need to determine the persons eligible to receive payment (e.g., the claimant, a representative

Occupational Illness Compensation Program, all administered by the Department of Labor.

² Such programs include Veterans Disability Compensation, administered by the Department of Veterans Affairs, and Special Compensation for Assistance with Activities of Daily Living, administered by the Department of War.

³ Such programs include federal retiree programs administered by the Office of Personnel Management and Social Security Retirement Insurance administered by SSA.

⁴ Lea Robbins, Effectuation of Awards of Monetary Benefits 3 (May 28, 2026) (report to the Admin. Conf. of the U.S.).

⁵ *Id.* at 7.

⁶ See, e.g., Soc. Sec. Advisory Bd., Research Portfolio on Disability: Effectuation of Disability Benefits 9 (2024).

⁷ Robbins, *supra* note 4, at 3.

⁴ Cf. Admin. Conf. of the U.S., Recommendation 2023–1, *Proactive Disclosure of Agency Legal Materials*, 88 FR 42678, 42679 at 1(e) (recommending that Congress amend 5 U.S.C. 552(a)(2) accordingly).

payee,⁸ a spouse or dependent(s),⁹ or a representative¹⁰; the amount each recipient should be paid; the date on which the claimant became eligible for benefits; and the appropriate method for making the payment (e.g., via direct deposit into a bank account or a prepaid debit card).¹¹ Although the claim file often contains some information needed to make these necessary determinations, the effectuator may need to coordinate with the claimant, another agency, or a third party to obtain additional information.

After completing the necessary determinations, the effectuator initiates payment. This process involves coordinating with the Department of the Treasury, which issues payments on behalf of many agencies. Around the time of payment, an award notice is sent to the claimant.¹²

Deficient effectuation practices can cause delayed or improper payments.¹³ Delays in paying awarded benefits can result in significant financial and other hardships for claimants, especially those for whom such benefits provide their primary source of income. Resolving improper payments can be time-consuming and resource-intensive for both agencies and claimants and can harm claimants' financial stability.

Demands on agency resources in making timely and accurate payments are magnified when effectuators must use multiple disconnected systems, when claims are complex or require additional verification to effectuate, or when awards are subject to offset or reduction.¹⁴ Means-tested programs, in which payment amounts depend on claimants' income and resources, pose additional challenges because payment

amounts may fluctuate during the process of determining eligibility and effectuating benefits,¹⁵ leading to a higher percentage of improper payments.¹⁶

Agencies may adopt several strategies to improve effectuation processes. Agencies can improve their electronic case management systems to make managing claims and processing payments easier.¹⁷ Some agencies automate, to varying degrees, the calculation of benefit amounts.¹⁸ When technological modernization requires reliance on both new and legacy systems during a period of transition, agencies may provide effectuators with one interface for viewing information and completing tasks.¹⁹ To improve communication, agencies can include explanations of the effectuation process and timeline in decisions regarding eligibility to prevent high volumes of inquiries and misunderstandings. Agencies may also enter into information-sharing agreements with other agencies,²⁰ and they may develop processes so that claimants and representatives can submit information and documents electronically through online self-help portals.²¹

Building on these and other successful strategies, this Recommendation provides best practices for promoting accuracy, efficiency, timeliness, transparency, and fairness in agency processes for effectuating awards of recurring monetary benefits. Specifically, it offers practices that agencies can use to improve access to information, modernize technology, promote quality, communicate effectively with claimants and representatives, and manage performance.

Recommendation

Improving Access to Information

1. Consistent with Recommendation 2023–4, *Online Processes in Agency Adjudication*, agencies should provide tools in online self-help portals associated with benefits programs that allow claimants and representatives, as applicable and when feasible, to:

- a. Submit information and documents relevant to the effectuation process;
- b. View case status information after an eligibility decision is made and view information about effectuation processing times, when agencies can reliably predict them;

¹⁵ See Soc. Sec. Advisory Bd., *supra* note 6, at 54.

¹⁶ Robbins, *supra* note 4, at 31.

¹⁷ See Admin. Conf. of the U.S., Recommendation 2018–3, *Electronic Case Management in Federal Administrative Adjudication*, 83 FR 30686 (June 29, 2018).

¹⁸ See e.g., U.S. R.R. Ret. Bd., 2025 Annual Report 39 (Sep. 2025).

¹⁹ Agencies commonly use middleware software that acts as a bridge between the different systems. See, e.g., Veterans Affs. 2024 Addendum to the Department of Veterans Affairs 5-Year Benefits System Modernization Plan as Prescribed under Section 701(b) of the PACT Act 68–69 (2024); Soc. Sec. Admin., FY 2023 Congressional Justification 184–185 (2024).

²⁰ See Admin. Conf. of the U.S., Recommendation 2026–1, *Obtaining Government Records for Use in Agency Proceedings*, 91 FR 6171 (Feb. 11, 2026).

²¹ Admin. Conf. of the U.S., Recommendation 2023–4, *Online Processes in Agency Adjudication*, 88 FR 42,681 (July 3, 2023).

c. Receive notifications when additional information is needed to effectuate awards of benefits;

d. Receive notifications about new documents, status changes, and other developments during the effectuation process; and

e. Contact the effectuator or effectuating component with questions.

2. Agencies should consider supplementing online self-help portals described in Paragraph 1 by authorizing additional electronic options (e.g., email) to enable claimants and their representatives to submit information and documents.

3. Consistent with Recommendation 2026–1, *Obtaining Government Records for Use in Agency Proceedings*, when agencies regularly need information created, collected, or maintained by another agency for use in effectuating awards of benefits, they should enter into an interagency agreement with the other agency, when permitted by law, for the secure, efficient, and continuous exchange of information, as relevant for the benefit program in question. Agencies should make these interagency agreements publicly available and regularly assess their effectiveness.

Modernizing Technology

4. Agencies should automate high-volume, labor-intensive, and repetitive tasks that do not require a significant exercise of discretion when automation will not adversely affect decision-making quality or program integrity.

5. When developing new automated systems and tools, agencies should test and validate them comprehensively before implementing them broadly, maintain human quality review for complex calculations, and periodically audit automated systems and tools to, so far as reasonably possible, ensure they remain accurate, efficient, timely, and fair.

6. Agencies should enable effectuators to view information and complete tasks within one interface, when technological modernization requires reliance on both new and legacy systems during a transition period.

Promoting Quality

7. When the same person is responsible for determining eligibility and effectuating the award, agencies should consider assigning another person to check calculations and review award details before finalizing payments of claims in categories that typically exhibit higher rates of improper payments.

8. Agencies should develop quality assurance systems, consistent with Recommendation 2021–10, *Quality Assurance Systems in Agency Adjudication*, to detect and address individual and systemic errors in effectuating awards of benefits.

Communicating Effectively With Claimants and Representatives

9. Agencies should develop standard explanations of the effectuation process, written in plain language, that decision makers must include in eligibility decisions awarding benefits. This explanation should include, among other things, a description of

⁸ A representative payee is the person or entity selected to receive and manage benefits on behalf of a beneficiary who is unable to manage payments themselves. See Reeve T. Bull et al., Admin. Conf. of the U.S., Office of the Chairman, Social Security Administration's Representative Payee Program: Information Sharing with States (June 29, 2020); Shawne McGibbon et al., Admin. Conf. of the U.S., Office of the Chairman, SSA Representative Payee: Survey of State Guardianship Laws and Court Practices (Dec. 24, 2014); Admin. Conf. of the U.S., Recommendation 91–3, *The Social Security Representative Payee Program*, 56 FR 33841 (July 24, 1991).

⁹ Under some benefits programs, certain family members are also eligible to receive benefits based on the claimant's award. See, e.g., 45 U.S.C. 231a(c) (Railroad Retirement Board).

¹⁰ Some agencies are responsible for processing and paying fees to lawyers and nonlawyer representatives who helped the claimant throughout the adjudicative process. See, e.g., 42 U.S.C. 406(a)(4), (b)(1), 1383(d)(2) (Social Security Administration).

¹¹ Robbins, *supra* note 4, at 4.

¹² See, e.g., U.S. Dep't Veterans Affs., Veterans Benefits Admin., M21–1, *Adjudication Procedures Manual* (M21–1) § VI.i.1.A.2.c. (July 22, 2024). This Recommendation does not address post-effectuation issues, such as reporting requirements, overpayments, garnishments, or offsets that arise after the effectuation process is complete.

¹³ An improper payment is “any payment that should not have been made or that was made in an incorrect amount, including an overpayment or underpayment, under a statutory, contractual, administrative, or other legally applicable requirement.” 31 U.S.C. 3351(4).

¹⁴ Robbins, *supra* note 4, at 30–36.

the effectuation process, any applicable reporting requirements, an estimated timeframe for its completion, and how to find information about the status of the award.

10. Agencies should post a plain-language explanation of the effectuation process in a prominent location on their websites. The explanation should include contact information for effectuating components and any other offices, including ombuds, that can answer questions or help claimants resolve effectuation-related issues.

Managing Performance

11. Agencies should develop, adopt, and make publicly available comprehensive performance goals and metrics for effectuation including:

- a. Average time from the date of the decision awarding benefits to the release of the initial payment;
- b. Accuracy rates of initial payments; and
- c. Average time for resolving identified payment errors during effectuation.

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–79–2026]

Foreign-Trade Zone (FTZ) 43, Notification of Proposed Production Activity; Harloff Manufacturing Company; (Solar Power Frames); Lawton, Michigan

The City of Battle Creek, grantee of FTZ 43, submitted a notification of proposed production activity to the FTZ Board (the Board) on behalf of Harloff Manufacturing Company (Harloff) for Harloff's facility in Lawton, Michigan within Subzone 43J. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on June 18, 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 product is squeeze splices (duty rate is 2.5%).

The proposed foreign-status material/ component is hot dip steel coils (duty rate is duty free).

The request indicates that the materials/components may be subject to duties under section 122 of the Trade Act of 1974 (Section 122) or section 232

of the Trade Expansion Act of 1962 (section 232), depending on the country of origin. The applicable section 122 and section 232 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 10, 2026.

A copy of the notification will be available for public inspection in the "Online FTZ Information System" section of the Board's website.

For further information, contact Christopher Williams at christopher.williams@trade.gov.

Dated: June 25, 2026.

Juanita Chen,

Acting Executive Secretary.

[FR Doc. 2026–13107 Filed 6–29–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–78–2026]

Foreign-Trade Zone (FTZ) 196, Notification of Proposed Production Activity; Foxlink Texas, Inc.; (Printed Circuit Board Assemblies); Fort Worth, Texas

Foxlink Texas, Inc. submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Fort Worth, Texas within FTZ 196. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on June 23, 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 product is logic board printed circuit boards for headphones (duty-free).

The proposed foreign-status materials/components include: organic cleaning agents; solder paste; self-adhesive tape; plastic labels; connectors; inductors; capacitors; ceramic dielectric chips; resistors; printed circuit boards;

coaxial connectors; diodes; transistors; electronic integrated circuit controllers; amplifiers; integrated circuit power converters; analog integrated circuits; audio integrated circuits; audio switching integrated circuits; battery charging integrated circuits; interface integrated circuits; LED driver integrated circuits; microcontroller integrated circuits; power management integrated circuits; receiver integrated circuits; voltage regulator integrated circuits; reset controller integrated circuits; insulated electric conductors; crystal oscillators; ferrite beads; and, noise suppression filters (duty rate ranges from duty-free to 5.8%).

The request indicates that certain materials/components are subject to duties under section 122 of the Trade Act of 1974 (Section 122) or section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 122, and section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign 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 10, 2026.

A copy of the notification will be available for public inspection in the "Online FTZ Information System" section of the Board's website.

For further information, contact Brian Warnes at brian.warnes@trade.gov.

Dated: June 25, 2026.

Juanita Chen,

Acting Executive Secretary.

[FR Doc. 2026–13111 Filed 6–29–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–131]

Twist Ties From the People's Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) order on twist ties from the People's Republic of China (China) would be likely to lead to continuation or recurrence of dumping at the levels indicated in the "Final Results of Sunset Review" section of this notice.

DATES: Applicable June 30, 2026.

FOR FURTHER INFORMATION CONTACT:

David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2178.

SUPPLEMENTARY INFORMATION:

Background

On April 14, 2021, Commerce published the *Order* in the **Federal Register**.¹ On March 2, 2026, Commerce published the notice of initiation of this first sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930 (the Act).²

On March 16, 2026, Commerce received a timely and complete notice of intent to participate in the sunset review from Bedford Industries, Inc. (the domestic interested party) within the deadline specified in the 19 CFR 351.218(d)(1)(i).³ The domestic interested party claimed the interested party status within the meaning of section 771(9)(C) of the Act as a domestic producer of the subject merchandise.⁴ On March 24, 2026, Commerce notified the U.S. International Trade Commission (ITC) that it had received a notice of intent to participate from the domestic interested party.⁵

On March 31, 2026, pursuant to 19 CFR 351.218(d)(3)(i), the domestic interested party filed a timely and adequate substantive response.⁶ Commerce did not receive a substantive response from any respondent interested party. On April 29, 2026, Commerce notified the ITC that it did not receive substantive response from any respondent interested parties.⁷ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR

351.218(e)(1)(ii)(C)(2), Commerce is conducting an expedited (120-day) sunset review of the *Order*.

Scope of the Order

The product covered by this *Order* is twist ties from China. For the full description of the scope of the *Order*, see the Issues and Decisions Memorandum.⁸

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Order* and the magnitude of the margins likely to prevail if the *Order* were to be revoked, is provided in the Issues and Decision Memorandum.⁹ A list of the topics discussed in the Issues and Decision Memorandum is attached in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be directly accessed at <https://access.trade.gov/frnotices>.

Final Results of Sunset Review

Pursuant to sections 751(c)(1), 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 72.96 percent.

Notification Regarding Administrative Protective Order (APO)

This notice also serves as the only reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials, or conversion to judicial protective, orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

⁸ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Order on Twist Ties from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁹ *Id.*

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.218 and 19 CFR 351.221(c)(5)(ii).

Dated: June 25, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*
- V. Legal Framework
- VI. Discussion of the Issues
 - 1. Likelihood of Continuation or Recurrence of Dumping
 - 2. Magnitude of the Margins of Dumping Likely to Prevail
- VII. Final Results of Sunset Review
- VIII. Recommendation

[FR Doc. 2026-13105 Filed 6-29-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-879, A-588-861]

Polyvinyl Alcohol From the People's Republic of China and Japan: Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) orders on polyvinyl alcohol (PVA) from Japan and the People's Republic of China (China) would be likely to lead to continuation or recurrence of dumping, at the levels indicated in the "Final Results of Sunset Reviews" section of this notice.

DATES: Applicable June 30, 2026.

FOR FURTHER INFORMATION CONTACT:

David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202-482-2178.

SUPPLEMENTARY INFORMATION:

¹ See *Twist Ties from the People's Republic of China: Antidumping and Countervailing Duty Orders*, 86 FR 19602 (April 14, 2021), as corrected by *Twist Ties from the People's Republic of China: Antidumping Duty and Countervailing Duty Orders; Correction*, 86 FR 22026 (April 26, 2021) (collectively, *Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 91 FR 10053 (March 2, 2026).

³ See Domestic Interested Party's Letter, "Twist Ties from the People's Republic of China: Notice of Intent to Participate in Sunset Review," dated March 16, 2026.

⁴ *Id.* at 3.

⁵ See Commerce's Letter, "Sunset Reviews Initiated on March 2, 2026," dated March 24, 2026.

⁶ See Domestic Interested Party's Letter, "Twist Ties from the People's Republic of China: Domestic Industry's Substantive Response to the Notice of Initiation," dated March 31, 2026 (Substantive Response).

⁷ See Commerce's Letter, "Sunset Reviews Initiated on March 2, 2026," dated April 29, 2026.

Background

On July 2, 2003, Commerce published the *Japan Order* in the **Federal Register**, and on October 1, 2003, Commerce published the *China Order* in the **Federal Register**.¹ On March 2, 2026, Commerce published the notice of initiation of this fourth sunset review of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930 (the Act).²

On March 17, 2026, Commerce received a timely and complete notices of intent to participate in the sunset reviews for domestic interested parties within the deadline specified in the 19 CFR 351.218(d)(1)(i).³ The domestic interested party claimed the interested party status within the meaning of section 771(9)(C) of the Act as U.S. producers of the domestic like product.⁴ On March 24, 2026, Commerce notified the U.S. International Trade Commission (ITC) that it had received a notice of intent to participate from the domestic interested parties.⁵

On April 1, 2026, pursuant to 19 CFR 351.218(d)(3)(i), domestic interested parties filed timely and adequate substantive response.⁶ Commerce did not receive a substantive response from any respondent interested party. On April 29, 2026, Commerce notified the ITC that it did not receive substantive response from any respondent interested parties.⁷ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting expedited (120-day) sunset reviews of the *Orders*.

Scope of the Orders

The product covered by these *Orders* is PVA from Japan and China. For the full description of the scope of the

Orders, see the Issues and Decisions Memorandum.⁸

Analysis of Comments Received

A complete discussion of all issues raised in these sunset reviews, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Orders* and the magnitude of the margins likely to prevail if the *Orders* were to be revoked, is provided in the accompanying Issues and Decision Memorandum.⁹ A list of the topics discussed in the Issues and Decision Memorandum is attached in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be directly accessed at <https://access.trade.gov/frnotices>.

Final Results of Sunset Reviews

Pursuant to sections 751(c)(1), 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Orders* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 144.16 percent for Japan and 97.86 percent for China.

Notification Regarding Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials, or conversion to judicial protective, orders 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

We are issuing and publishing these final results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act,

⁸ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders on Polyvinyl Alcohol from Japan and the People's Republic of China," dated concurrently with, and hereby adopted by, this notice.

⁹ *Id.*

and 19 CFR 351.218 and 19 CFR 351.221(c)(5)(ii).

Dated: June 24, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. History of the *Orders*
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of Dumping
 2. Magnitude of the Margins of Dumping Likely to Prevail
- VII. Final Results of Sunset Reviews
- VIII. Recommendation

[FR Doc. 2026–13104 Filed 6–29–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–602–813]

Silicon Metal From Australia: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that silicon metal from Australia is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2024, through March 31, 2025.

DATES: Applicable June 30, 2026.

FOR FURTHER INFORMATION CONTACT: Jacob Waddell, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1369.

SUPPLEMENTARY INFORMATION:

Background

On February 9, 2026, Commerce published the *Preliminary Determination* of sales at LTFV of silicon metal from Australia, in which we also postponed the final determination until June 24, 2026, and invited interested parties to comment on the *Preliminary Determination*.¹ A

¹ See *Silicon Metal from Australia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination*,

Continued

¹ See *Antidumping Duty Order: Polyvinyl Alcohol from Japan*, 68 FR 39518 (July 2, 2003) (*Japan Order*); *Antidumping Duty Order: Polyvinyl Alcohol from the People's Republic of China*, 68 FR 56620 (October 1, 2003) (*China Order*) (collectively, *Orders*).

² See *Initiation of Five-Year (Sunset) Reviews*, 91 FR 10053 (March 2, 2026).

³ See Domestic Interested Parties' Letter, "Polyvinyl Alcohol from Japan: Notice of Intent to Participate in Sunset Review," dated March 17, 2026; see also Domestic Interested Parties' Letter, "Polyvinyl Alcohol from the People's Republic of China: Notice of Intent to Participate in Sunset Review," dated March 27, 2026.

⁴ *Id.*

⁵ See Commerce's Letter, "Sunset Reviews Initiated on March 2, 2026," dated March 24, 2026.

⁶ See Domestic Interested Parties' Letter, "Polyvinyl Alcohol from Japan: Substantive Response to the Notice of Initiation," dated April 1, 2026 (Substantive Response—Japan); see also Domestic Interested Parties' Letter, "Polyvinyl Alcohol from the People's Republic of China: Substantive Response to the Notice of Initiation," dated April 1, 2026 (Substantive Response—China).

⁷ See Commerce's Letter, "Sunset Reviews Initiated on March 2, 2026," dated April 29, 2026.

summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is on file electronically via 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>.

Scope of the Investigation

The product covered by this investigation is silicon metal from Australia. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

We received no comments from interested parties on the scope of the investigation as it appeared in the *Preliminary Determination*. Therefore, we made no changes to the scope of the investigation.

Verification

Commerce verified the sales and cost information submitted by Simcoa Operations Pty Ltd. (Simcoa) for use in this final determination, consistent with section 782(i) of the Tariff Act of 1930, as amended (the Act).³ We used standard verification procedures, including an examination of relevant sales and accounting records, and original source documents provided by Simcoa.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by interested parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision

Memorandum is attached to this notice as Appendix II.

Changes Since the Preliminary Determination

We made certain changes since the *Preliminary Determination*. For a discussion of these changes, see the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for individually investigated exporters and producers, excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act.

Because there is only one mandatory respondent in this investigation, *i.e.*, Simcoa, and its final dumping margin is not zero, *de minimis*, or based entirely on facts otherwise available, we assigned Simcoa's estimated weighted-average dumping margin to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

Exporter or producer	Weighted-average dumping margin (percent)
Simcoa Operations Pty Ltd.	6.16
All Others	6.16

Disclosure

Commerce intends to disclose the calculations performed in connection with this final determination to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after February 9, 2026, the date of publication of the

Preliminary Determination in the **Federal Register**. These suspension of liquidation instructions will remain in effect until further notice.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon the publication of this notice, we will instruct CBP to require a cash deposit for estimated antidumping duties for such entries as follows: (1) the cash deposit rate for subject merchandise exported by Simcoa is equal to the company-specific estimated weighted-average dumping margin listed in the above table; (2) if the exporter is not a company listed in the table above, but the producer is, then the cash deposit rate is equal to the company-specific estimated weighted-average dumping margins listed for the producer of the subject merchandise in the table above; and (3) the cash deposit rate for all other producers and exporters is equal to the estimated weighted-average dumping margins for all-other producers and exporters listed in the table above.

U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of silicon metal from Australia no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, all cash deposits posted will be refunded, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed in the "Continuation of Suspension of Liquidation" section above.

Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information

and Extension of Provisional Measures, 91 FR 5711 (February 9, 2026) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination of Sales at Less Than Fair Value in the Investigation of Silicon Metal from Australia," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See Memoranda, "Verification of the Export Price and Constructed Export Price Sales Response of Simcoa Operations Pty Ltd.," dated May 13, 2026; "Verification of the Cost Response of Simcoa Operations Pty. Ltd. in the Less-than-Fair-Value Investigation of Silicon Metal from Australia," dated May 19, 2026.

disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This final determination and notice are issued and published in accordance with sections 735(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: June 24, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigation

The scope of this investigation covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of this investigation.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes Since the *Preliminary Determination*
- IV. Discussion of the Issues
 - Comment 1: Application of Partial Adverse Facts Available to Simcoa's U.S. Sales
 - Comment 2: Revised Differential Pricing Analysis
 - Comment 3: Application of the Major Input Rule
 - Comment 4: General and Administrative Expenses based on Verification Findings
 - Comment 5: General and Administrative Expenses based on Insurance Revenue
 - Comment 6: Financial Expense Ratio
 - Comment 7: By-Product Offset
 - Comment 8: Constructed Export Price Indirect Selling Expense
 - Comment 9: Duties Charged under the International Emergency Economic Powers Act
- V. Recommendation

[FR Doc. 2026–13118 Filed 6–29–26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–117, C–570–118]

Wood Mouldings and Millwork Products 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 wood mouldings and millwork products (millwork products) from the People's Republic of China (China) would likely lead to the continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of these AD and CVD orders.

DATES: Applicable June 24, 2026.

FOR FURTHER INFORMATION CONTACT:

David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2178.

SUPPLEMENTARY INFORMATION:

Background

On February 16, 2021, Commerce published in the *Federal Register* the AD and CVD orders on millwork products from China.¹ On January 2, 2026, the ITC instituted,² and Commerce initiated,³ the first 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/or countervailable subsidies, and therefore, notified the ITC of the magnitude of the margins of

dumping and/or subsidy rates likely to prevail should the *Orders* be revoked.⁴

On June 24, 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 merchandise subject to the *Orders* consists of wood mouldings and millwork products that are made of wood (regardless of wood species), bamboo, laminated veneer lumber (LVL), or of wood and composite materials (where the composite materials make up less than 50 percent of the total merchandise), and which are continuously shaped wood or finger-jointed or edge-glued moulding or millwork blanks (whether or not resawn). The merchandise subject to the *Orders* can be continuously shaped along any of its edges, ends, or faces.

The percentage of composite materials contained in a wood moulding or millwork product is measured by length, except when the composite material is a coating or cladding. Wood mouldings and millwork products that are coated or clad, even along their entire length, with a composite material, but that are otherwise comprised of wood, LVL, or wood and composite materials (where the non-coating composite materials make up 50 percent or less of the total merchandise) are covered by the scope.

The merchandise subject to the *Orders* consists of wood, LVL, bamboo, or a combination of wood and composite materials that is continuously shaped throughout its length (with the exception of any endwork/dados), profiled wood having a repetitive design in relief, similar milled wood architectural accessories, such as rosettes and plinth blocks, and finger-jointed or edge-glued moulding or millwork blanks (whether or not resawn). The scope includes continuously shaped wood in the forms of dowels, building components such as interior paneling and jamb parts, and

¹ See *Wood Mouldings and Millwork Products from the People's Republic of China: Amended Final Antidumping Duty Determination and Antidumping Duty Order*, 86 FR 9486 (February 16, 2021) and *Wood Mouldings and Millwork Products from the People's Republic of China: Countervailing Duty Order*, 86 FR 9484 (February 16, 2021).

² See *Wood Mouldings and Millwork Products from China: Institution of Five-Year Reviews*, 91 FR 151 (January 2, 2026).

³ See *Initiation of Five-Year (Sunset) Reviews*, 91 FR 125 (January 2, 2026).

⁴ See *Wood Mouldings and Millwork Products from the People's Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Orders*, 91 FR 24173 (May 5, 2026), and accompanying Issues and Decision Memorandum (IDM); and *Wood Mouldings and Millwork Products from the People's Republic of China: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 91 FR 24168 (May 5, 2026), and accompanying IDM.

⁵ See *Wood Mouldings and Millwork Products from China*, 91 FR 38013 (June 24, 2026) (ITC Final Determination).

door components such as rails, stiles, interior and exterior door frames or jams (including split, flat, stop applied, single- or double-rabbeted), frame or jamb kits, and packaged door frame trim or casing sets, whether or not the door components are imported as part of a door kit or set.

The covered products may be solid wood, laminated, finger-jointed, edge-glued, face-glued, or otherwise joined in the production or remanufacturing process and are covered by the scope whether imported raw, coated (e.g., gesso, polymer, or plastic), primed, painted, stained, wrapped (paper or vinyl overlay), any combination of the aforementioned surface coatings, treated, or which incorporate rot-resistant elements (whether wood or composite). The covered products are covered by the scope whether or not any surface coating(s) or covers obscure the grain, textures, or markings of the wood, whether or not they are ready for use or require final machining (e.g., endwork/dado, hinge/strike machining, weatherstrip or application thereof, mitre) or packaging.

All wood mouldings and millwork products are included within the scope even if they are trimmed; cut-to-size; notched; punched; drilled; or have undergone other forms of minor processing.

Subject merchandise also includes wood mouldings and millwork products that have been further processed in a third country, including but not limited to trimming, cutting, notching, punching, drilling, coating, or any other processing that would not otherwise remove the merchandise from the scope of this order if performed in the country of manufacture of the in-scope product.

Excluded from the scope of the Order are countertop/butcherblocks imported as a full countertop/butcherblock panel, exterior fencing, exterior decking and exterior siding products (including solid wood siding, non-wood siding (e.g., composite or cement), and shingles) that are not LVL or finger jointed; finished and unfinished doors; flooring; parts of stair steps (including newel posts, balusters, easing, gooseneck, risers, treads, rail fittings and stair stringers); picture frame components three feet and under in individual lengths; and lumber whether solid, finger jointed, or edge-glued. To be excluded from the scope, finger-jointed or edge glued lumber must have a nominal thickness of 1.5 inches or greater and a certification stamp from an American Lumber Standard Committee-certified grading agency. The exclusion for lumber whether solid, finger-jointed, or edge-glued does not apply to screen/

“surfaced on 4 sides” (S4S) and/or “surface 1 side, 2 edges” (S1S2E) stock (also called boards) that are finger-jointed and/or edge glued, or to finger-jointed and/or edge-glued moulding or millwork blanks (whether or not resawn). Accordingly, S4S and S1S2E stock/boards that are not finger-jointed or edge glued are excluded from the scope of this order.

Excluded from the scope of the *Orders* are all products covered by the scope of the antidumping duty order on Hardwood Plywood from the People’s Republic of China. See *Certain Hardwood Plywood Products from the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 83 FR 504 (January 4, 2018).

Excluded from the scope of the *Orders* are all products covered by the scope of the antidumping duty order on *Multilayered Wood Flooring from the People’s Republic of China*. See *Multilayered Wood Flooring from the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 76 FR 76690 (December 8, 2011).

Excluded from the scope of the *Orders* are all products covered by the scope of the antidumping duty order on Wooden Cabinets and Vanities from the People’s Republic of China. See *Wooden Cabinets and Vanities and Components Thereof from the People’s Republic of China: Antidumping Duty Order*, 85 FR 22126 (April 21, 2020).

Excluded from the scope of the *Orders* are all products covered by the scope of the antidumping duty order on Wooden Bedroom Furniture from the People’s Republic of China. See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture from the People’s Republic of China*, 70 FR 329 (January 4, 2005).

Imports of wood mouldings and millwork products are primarily entered under the following Harmonized Tariff Schedule of the United States (HTSUS) numbers: 4409.10.0500, 4409.10.1020, 4409.10.1040, 4409.10.1060, 4409.10.1080, 4409.10.4010, 4409.10.4090, 4409.10.4500, 4409.10.5000, 4409.10.9020, 4409.10.9040, 4409.22.0590, 4409.22.1000, 4409.22.4000, 4409.22.5000, 4409.22.5020, 4409.22.5040, 4409.22.5060, 4409.22.5090, 4409.22.9000, 4409.22.9020, 4409.22.9030, 4409.22.9045, 4409.22.9060, 4409.22.9090, 4409.29.0665, 4409.29.1100, 4409.29.4100, 4409.29.5100, 4409.29.9100,

4412.99.5115, 4412.99.9500, 4418.91.9095, and 4421.91.9780. Imports of wood mouldings and millwork products may also enter under HTSUS numbers: 4409.10.6000, 4409.10.6500, 4409.22.6000, 4409.22.6500, 4409.29.6100, 4409.29.6600, 4412.41.0000, 4412.42.0000, 4412.49.0000, 4412.91.5115, 4412.92.5215, 4412.99.9700, 4418.20.4000, 4418.20.8030, 4418.20.8060, 4418.91.9195, 4418.99.9095, 4418.99.9195, 4421.91.9880, 4421.99.9780, and 4421.99.9880. While the HTSUS subheadings are provided for convenience and customs purposes, 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 June 24, 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

⁶ See ITC Final Determination.

section 777(i) of the Act, and 19 CFR 351.218(f)(4).

Dated: June 24, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–13103 Filed 6–29–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–403–806]

Silicon Metal From Norway: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that silicon metal from Norway is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2024, through March 31, 2025.

DATES: Applicable June 30, 2026.

FOR FURTHER INFORMATION CONTACT: Brittany Bauer, 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) 482–3860.

SUPPLEMENTARY INFORMATION:

Background

On February 9, 2026, Commerce published the *Preliminary Determination* of sales at LTFV of silicon metal from Norway, in which we also postponed the final determination until June 24, 2026, and invited interested parties to comment on the *Preliminary Determination*.¹ A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is on file electronically via 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>.

Scope of the Investigation

The product covered by this investigation is silicon metal from Norway. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

We received no comments from interested parties on the scope of the investigation as it appeared in the *Preliminary Determination*. Therefore, we made no changes to the scope of the investigation.

Verification

Commerce verified the sales and cost information submitted by Elkem ASA (Elkem)³ for use in our final determination, consistent with section 782(i) of the Tariff Act of 1930, as amended (the Act). We used standard verification procedures, including an examination of relevant sales and accounting records, and original source documents provided by Elkem.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by interested parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II.

Changes Since the Preliminary Determination

We made certain changes to the margin calculations for Elkem since the *Preliminary Determination*. For a discussion of these changes, see the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and/or exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins

established for exporters and producers individually investigated excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act.

Because there is only one mandatory respondent in this investigation, *i.e.*, Elkem, and its final dumping margin is not zero, *de minimis*, or based entirely on facts otherwise available, we assigned Elkem's estimated weighted-average dumping margin to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

Producer or exporter	Estimated weighted-average dumping margin (percent)
Elkem ASA	2.47
All Others	2.47

Disclosure

Commerce intends to disclose the calculations performed in connection with this final determination to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after February 9, 2026, the date of publication of the *Preliminary Determination* in the **Federal Register**.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon the publication of this notice, we will instruct CBP to require a cash deposit for estimated weighted-average antidumping duties as follows: (1) the cash deposit rate for the company listed in the table above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a company identified in the table above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin

¹ See *Silicon Metal from Norway: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 91 FR 5706 (February 9, 2026) (*Preliminary Determination*).

² See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination of Sales at Less Than Fair Value in the Investigation of Silicon Metal from Norway," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See Memoranda, "Verification of the Sales Response of Elkem ASA in the Less-Than-Fair-Value Investigation of Silicon Metal from Norway," dated April 9, 2026, and "Verification of the Cost Response of Elkem A.S.A. in the Less-Than-Fair-Value Investigation of Silicon Metal from Norway," dated May 8, 2026.

established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

U.S. International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, Commerce will notify the ITC of its final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of silicon metal from Norway no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, all cash deposits posted will be refunded, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed in the "Continuation of Suspension of Liquidation" section above.

Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This final determination and notice are issued and published in accordance with sections 735(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: June 24, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

Scope of the Investigation

The scope of this investigation covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of this investigation.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes Since the *Preliminary Determination*
- IV. Discussion of the Issues
 - Comment 1: Revised Differential Pricing Analysis
 - Comment 2: Treatment of Inventory Carrying Costs
 - Comment 3: Further Manufacturing Reporting
 - Comment 4: Impairment Losses
 - Comment 5: Insurance Proceeds
 - Comment 6: Financial Expense Ratio
 - Comment 7: General and Administrative (G&A) Expense Ratio
 - Comment 8: Exclusion of Cost Offset
- V. Recommendation

[FR Doc. 2026-13121 Filed 6-29-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-602-814]

Silicon Metal From Australia: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of silicon metal from Australia. The period of investigation is January 1, 2024, through December 31, 2024.

DATES: Applicable June 30, 2026.

FOR FURTHER INFORMATION CONTACT: Kyle Clahane, 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) 482-5449.

SUPPLEMENTARY INFORMATION:

Background

On September 26, 2025, Commerce published the *Preliminary Determination* of this investigation in the **Federal Register** and aligned the final determination with the final determination in the less-than-fair-value (LTFV) investigation of silicon metal from Australia, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.210(b)(4).¹ Commerce invited interested parties to comment on the *Preliminary Determination*.² On February 9, 2026, Commerce published the preliminary determination in the LTFV investigation of silicon metal from Australia and postponed the deadline for the final determination.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 Consequently, the deadline for the final determination of this investigation is now June 24, 2026.

For a complete description of the events that followed the *Preliminary*

¹ See *Silicon Metal from Australia: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 90 FR 46390 (September 26, 2025) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination of the Countervailing Duty Investigation of Silicon Metal from Australia," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See *Silicon Metal from Australia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 91 FR 5711 (February 9, 2026).

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.

Determination, see the Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Investigation

The product covered by this investigation is silicon metal from Australia. For a complete description of the scope of this investigation, see Appendix I.

Verification

Consistent with section 782(i) of the Act, in February 2026, Commerce verified all information reported by the mandatory respondent, Simcoa Operations Pty, Ltd. (Simcoa), and the Government of Australia (GOA). We used standard verification procedures, including an examination of relevant account records and original source documents provided by Simcoa and the GOA.⁶

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs that were submitted by parties in this investigation, are discussed in the Issues and Decision Memorandum. For a list of the issues raised by interested parties and addressed in the Issues and Decision Memorandum, see Appendix II to this notice.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found to be countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁷ For a full description of the methodology underlying our final determination, see the Issues and Decision Memorandum.

⁶ See Memoranda, “Verification of the Questionnaire Responses of Simcoa Operations,” dated March 19, 2026; and “Verification of the Questionnaire Responses of the Government of Australia,” dated March 19, 2026.

⁷ 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.

Changes Since the Preliminary Determination

Based on our analysis of the comments received from interested parties and our verification findings, we made certain changes to the subsidy rate calculations for Simcoa. For a discussion of these changes, see the Issues and Decision Memorandum.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

Commerce calculated an individual estimated countervailable subsidy rate for Simcoa, the only individually examined exporter/producer in this investigation. Because the only individually calculated rate is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average rate calculated for Simcoa is the rate assigned to all other producers and exporters, pursuant to section 705(c)(5)(A)(i) of the Act.

Final Determination

Commerce determines that the following estimated net countervailable subsidy rates exist:

Company	Subsidy rate (percent <i>ad valorem</i>)
Simcoa Operations Pty, Ltd. ⁸	32.57
All Others	32.57

Disclosure

Commerce intends to disclose its calculations performed to interested parties in this final determination within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and

⁸ As discussed in the *Preliminary Determination* PDM, Commerce found the following companies to be cross-owned with Simcoa: Silicon Metal Company of Australia Pty Ltd.; Simcoa Mines Pty Ltd.; and Microsilica Pty Ltd.

Border Protection (CBP) to collect cash deposits and suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after September 26, 2025, the date of publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation of all entries of subject merchandise entered or withdrawn from warehouse, on or after January 24, 2026, the first day provisional measures were no longer in effect, but to continue the suspension of liquidation of all entries of subject merchandise on or before January 23, 2026.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. Pursuant to section 705(c)(2) of the Act, if the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of silicon metal from Australia. As Commerce’s final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of silicon metal from Australia. In addition, we are making available to the ITC all non-privileged and non-proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will

issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed in the “Continuation of Suspension of Liquidation” section, above.

Administrative Protective Order

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: June 24, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigation

The scope of this investigation covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of these investigations.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes Since the *Preliminary Determination*
- IV. Subsidies Valuation
- V. Analysis of Programs
- VI. Discussion of the Issues

Comment 1: Whether the Tier-Three Benchmark for the Silicon Mining Rights for Less-Than-Adequate-Remuneration (LTAR) Should Change

Comment 2: Whether Commerce Erred in its Specificity Analysis for Silicon Mining Rights for LTAR Program

Comment 3: How to Countervail the Exemption from RET Program Liability

Comment 4: Whether Commerce Erred in its Specificity Analysis for the RET Program Liability

Comment 5: Whether Electricity for LTAR is a Countervailable Subsidy

Comment 6: Whether Payments Under CRR Service Replacing the Ancillary Service (Spinning Reserve) Scheme is Countervailable

Comment 7: Whether the Payments Under the DSM Program are Specific and Countervailable

Comment 8: Whether the R&D Tax Incentive Benefitted Simcoa During the POI

Comment 9: Whether Commerce Erred in its Specificity Analysis for the R&D Tax Incentive Program

Comment 10: Whether Commerce Erred in its Specificity Analysis for the Fuel Tax Credits Program

VII. Recommendation

[FR Doc. 2026–13119 Filed 6–29–26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–821–825]

Phosphate Fertilizers From the Russian Federation: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on phosphate fertilizers from the Russian Federation (Russia) would be likely to lead to continuation or recurrence of countervailable subsidies at the levels indicated in the “Final Results of Sunset Review” section of this notice.

DATES: Applicable June 30, 2026.

FOR FURTHER INFORMATION CONTACT: David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2178.

SUPPLEMENTARY INFORMATION:

Background

On April 7, 2021, Commerce published the CVD order on phosphate

fertilizers from Russia.¹ On March 2, 2026, Commerce published the notice of initiation of the first sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(c).²

On March 17, 2026, Commerce received a notice of intent to participate in this sunset review from Mosaic Company (Mosaic) and J. R. Simplot Company, LLC (Simplot) (collectively, the domestic interested parties), within the deadline specified in 19 CFR 351.218(d)(1)(i).³ The domestic interested parties claim interested party status within the meaning of section 771(9)(C) of the Act and 19 CFR 351.102(b)(29)(v) as producers of the domestic like product.⁴

On April 1, 2026, Commerce received an adequate substantive response from the domestic interested parties, within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁵ Commerce did not receive a substantive response from either the Government of Russia or a respondent interested party to this proceeding. On April 29, 2026, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from any respondent interested parties.⁶ As a result, Commerce conducted an expedited (120-day) sunset review of the *Order*, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B)(2) and (C)(2).

¹ See *Phosphate Fertilizers from the Kingdom of Morocco and the Russian Federation: Countervailing Duty Orders*, 86 FR 18037 (April 7, 2021) (*Order*), as amended in *Phosphate Fertilizers from the Russian Federation: Notice of Court Decision Not in Harmony With the Final Determination of Countervailing Duty Investigation; Notice of Amended Final Determination and Amended countervailing Duty Order*, 89 FR 5491 (January 29, 2024).

² See *Initiation of Five-Year (Sunset) Reviews*, 91 FR 10053 (March 2, 2026).

³ See Mosaic’s Letter, “Phosphate Fertilizers from the Russian Federation: Petitioner’s Notice of Intent to Participate in Sunset Review,” dated March 17, 2026 (Mosaic’s Notice of Intent); and Simplot’s Letter, “Five-Year (“Sunset”) Review Of Countervailing Duty Order On Phosphate Fertilizers from Russia: Notice Of Intent To Participate In Sunset Review,” dated March 17, 2026 (Simplot’s Notice of Intent).

⁴ See Mosaic’s Notice of Intent at 2; and Simplot’s Notice of Intent at 2.

⁵ See Mosaic’s Letter, “Phosphate Fertilizers From the Russian Federation: Substantive Response to the Notice of Initiation,” dated April 1, 2026; and Simplot’s Letter, “First Five-Year (“Sunset”) Review Of The Countervailing Duty Order On Phosphate Fertilizers from the Russian Federation: Simplot’s Substantive Response,” dated April 1, 2026.

⁶ See Commerce’s Letter, “Sunset Reviews Initiated March 2, 2026,” dated April 29, 2026.

Scope of the Order

The product covered by this *Order* is phosphate fertilizers from Russia. For a full description of the scope of the *Order*, see the Issues and Decisions Memorandum.⁷

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of subsidization and the countervailable subsidy rates likely to prevail if the *Order* were to be revoked, is contained in the Issues and Decision Memorandum.⁸ A list of the topics discussed in the Issues and Decision Memorandum is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at <https://access.trade.gov>. In addition, complete versions of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Final Results of Sunset Review

Pursuant to sections 751(c) and 752(b) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of countervailable subsidies at the following net countervailable subsidy rates:

Producers/exporters	Net countervailable subsidy rate (percent <i>ad valorem</i>)
EuroChem	24.11
JSC Apatit	14.64
All Others	16.64

Notification Regarding Administrative Protective Order (APO)

This notice also serves as the only reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials, or conversion to judicial protective, orders 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

We are issuing and publishing these final results in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act, and 19 CFR 351.221(c)(5)(ii).

Dated: June 25, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
 2. Net Countervailable Subsidy Rates Likely to Prevail
 3. Nature of the Subsidies
- VII. Final Results of Sunset Review
- VIII. Recommendation

[FR Doc. 2026–13106 Filed 6–29–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–898]

Chlorinated Isocyanurates From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2023–2024; Correction

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

ACTION: Notice; correction.

SUMMARY: The U.S. Department of Commerce (Commerce) published notice in the **Federal Register** of March 11, 2026, in which Commerce announced the final results of the antidumping duty administrative review on chlorinated isocyanurates from the People's Republic of China (China) covering the period of review (POR) June 1, 2023, through May 31, 2024. This notice inadvertently omitted certain days in the POR.

FOR FURTHER INFORMATION CONTACT: Dan Alexander, AD/CVD Operations, Office OII, 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 March 11, 2026, Commerce published the *Final Results* of the antidumping duty administrative review on chlorinated isocyanurates from China covering the POR June 1, 2023, through May 31, 2024 in the **Federal Register**.¹ The *Final Results* misstated the POR as June 1, 2023, through May 3, 2024.

Correction

In the **Federal Register** of March 11, 2026, in FR Doc 2026–04767, on page 11954, in the third column, correct the POR in the “Summary” paragraph to state “June 1, 2023, through May 31, 2024.”

Notification to Interested Parties

This notice is issued and published in accordance with 751 (a) and 777(i) of the Tariff Act of 1930, as amended.

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.

[FR Doc. 2026–13125 Filed 6–29–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–403–807]

Silicon Metal From Norway: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of silicon metal from Norway during the period of investigation (POI), January 1, 2024, through December 31, 2024.

DATES: Applicable June 30, 2026.

FOR FURTHER INFORMATION CONTACT: Stefan Smith, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4342.

SUPPLEMENTARY INFORMATION:

¹ See *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2023–2024*, 91 FR 11954 (March 11, 2026) (*Final Results*).

⁷ See Memorandum, “Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Countervailing Duty Order on Phosphate Fertilizers from the Russian Federation,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁸ *Id.*

Background

On September 26, 2025, Commerce published in the **Federal Register** the *Preliminary Determination* and invited comments from interested parties.¹ Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.² Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.³ Accordingly, the deadline for this final determination is now June 24, 2026.

For a complete description of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, *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 <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Investigation

The product covered by this investigation is silicon metal from Norway. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

No interested party commented on the scope of the investigation as it appeared in the *Preliminary Determination*. Therefore, no changes were made to the scope of the investigation.

¹ See *Silicon Metal from Norway: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 90 FR 46386 (September 26, 2025) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

³ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

⁴ See Memorandum, “Issues and Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Silicon Metal from Norway,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Verification

Commerce conducted verification of the information relied upon in making its final determination in this investigation, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Specifically, we conducted on-site verifications of the subsidy information reported by the Government of Norway (GON) and Elkem ASA (Elkem) in March 2026 using standard verification procedures, including an examination of relevant sales and accounting records, and original source documents.⁵

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs that were submitted by parties in this investigation, are discussed in the Issues and Decision Memorandum. For a list of the issues raised by parties, and to which we responded in the Issues and Decision Memorandum, *see* Appendix II.

Methodology

Commerce conducted this investigation in accordance with section 701 the Act. For each of the subsidy programs found to be countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁶ For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of the information received during verification, for this final determination, we made certain changes to the countervailable subsidy rate calculations for Elkem and for all other producers/exporters. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

Pursuant to section 705(c)(5)(A)(i) of the Act, Commerce will determine an all-others rate equal to the weighted average countervailable subsidy rates

⁵ See Memorandum, “Verification of the Questionnaire Responses of the Government of Norway,” dated April 14, 2026; *see also* Memorandum, “Verification of the Questionnaire Responses of Elkem ASA,” dated April 14, 2026.

⁶ See sections 771(5)(B) and (D) of the Act regarding financial contribution; *see also* section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

established for those exporters and/or producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates based entirely under section 776 of the Act.

In this investigation, Commerce calculated an individual estimated countervailable subsidy rate for Elkem, the only individually examined exporter/producer in this investigation. Because the only individual calculated rate is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average rate calculated for Elkem is the rate assigned to all other producers and exporters, pursuant to section 705(c)(5)(A)(i) of the Act.

Final Determination

Commerce determines that the following estimated countervailable subsidy rates exist for the period January 1, 2024, through December 31, 2024:

Company	Subsidy rate (percent <i>ad valorem</i>)
Elkem ASA ⁷	17.27
All Others	17.27

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this final determination within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to collect cash deposits and suspend liquidation of entries of subject merchandise, as described in the scope of the investigation section, that were entered, or withdrawn from warehouse, for consumption on or after September 26, 2025, the date of publication of the *Preliminary Determination* in the **Federal Register**, for entries produced and/or exported by Elkem and all other producers and exporters. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of

⁷ Commerce has found the following companies to be cross-owned with Elkem: Elkem Carbon AS; Elkem International AS; and Elkem Silicon Product Development AS.

liquidation of all entries of subject merchandise entered or withdrawn from warehouse, on or after, January 24, 2026, but to continue the suspension of liquidation of all entries of subject merchandise that were subject to suspension of liquidation between September 26, 2025, and January 23, 2026.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above, in accordance with section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of silicon metal from Norway. Because the final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of silicon metal from Norway no later than 45 days after this final determination. In addition, we are making available to the ITC all non-privileged and nonproprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all cash deposits will be refunded.

If the ITC determines that such injury does exist, Commerce will issue a countervailing duty order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after

the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

Administrative Protective Order

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: June 24, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigation

The scope of this investigation covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of this investigation.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Subsidies Valuation
- IV. Analysis of Programs
- V. Discussion of the Issues
 - Comment 1: Whether to Find the Apprenticeship Funding Program Countervailable
 - Comment 2: Whether to Find the Industrial Development Corporation of Norway (SIVA) Program Countervailable
 - Comment 3: Whether to Countervail the Additional Free Allowances under the

- Free Allocation of European Union (EU) Emissions Trading System (ETS)
- Comment 4: Whether to Countervail the Enova Grant Programs
- Comment 5: Whether to Countervail the Innovation Projects for the Industrial Sector Program
- Comment 6: Whether to Countervail the Environmental Technology Scheme
- Comment 7: Whether to Countervail the SkatteFUNN Program
- Comment 8: Whether to Apply Total Adverse Facts Available (AFA) to Elkem with Respect to an Unreported Affiliate Discovered at Verification and Accept Elkem's Sales Minor Correction from Verification Regarding this Entity
- Comment 9: Whether to Apply AFA to Elkem with Respect to an Unreported Subsidy
- Comment 10: Whether to Countervail the Reduced Electricity Tax Rate Program

VI. Recommendation

[FR Doc. 2026-13120 Filed 6-29-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF860]

Marine Mammals; File No. 29287

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the NMFS Southwest Fisheries Science Center, 8901 La Jolla Shores Drive, La Jolla, California 92037 (Responsible Party: David Weller, Ph.D.), has applied in due form for a permit to conduct research on marine mammals.

DATES: Written comments must be received on or before July 30, 2026.

ADDRESSES: The application and related documents are available upon written request via email to NMFS.Pr1Comments@noaa.gov.

Written comments on this application should be submitted via email to NMFS.Pr1Comments@noaa.gov. Please include File No. 29287 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to NMFS.Pr1Comments@noaa.gov. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan, Ph.D., or Amy Hapeman, (301) 427-8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the

authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant requests a 10-year permit to conduct research on 41 species of cetaceans and 6 species of pinnipeds in U.S. and international waters of the Pacific and Southern Oceans. ESA-listed species include: blue (*Balaenoptera musculus*), fin (*B. physalus*), gray (*Eschrichtius robustus*), humpback (*Megaptera novaeangliae*), killer (*Orcinus orca*), North Pacific right (*Eubalaena japonica*), sei (*B. borealis*), Southern right (*Eubalaena australis*), and sperm (*Physeter macrocephalus*) whales; and Guadalupe fur seals (*Arctocephalus townsendi*). The objectives of the research are to study marine mammal abundance, distribution, movements, density, survival, reproduction, health and condition, dive behavior, acoustics, demography, and stock structure. Cetaceans may be taken during vessel and aerial surveys, including uncrewed aircraft systems (UAS), for counts, photography, videography, photogrammetry, observations, passive acoustic recordings, biological sampling (blow, feces, sloughed skin, and skin and blubber biopsies), and tagging (suction-cup and dart/barb). Pinnipeds may be taken during surveys by ground, manned aircraft, or UAS for counts, photography, videography, photogrammetry, observations, and collection of scat and spew. Marine mammal parts may also be salvaged, imported, exported, or received for analysis and curation. See the application for complete numbers of animals requested by species, life stage, and procedure.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 24, 2026.

Larissa Plants,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–13171 Filed 6–29–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF853]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will convene a meeting to review key management provisions for Pacific sardine in the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP), including reference points and control rules. The meeting will be hosted at the NMFS Southwest Fisheries Science Center. The meeting is open to the public and being conducted in person with the opportunity for public comment.

DATES: The meeting will be held Wednesday, July 22 through Friday, July 24, 2026, from 8:30 a.m. until 5 p.m. (Pacific Standard Time) or until business for the day has been completed.

ADDRESSES: The meeting will be held at the NMFS Southwest Fisheries Science Center, Pacific Room, 8901 La Jolla Shores Drive, La Jolla, CA 92037, Tel: 858–546–7000.

This meeting is being conducted in person. Specific meeting information, materials, visitor protocols, and instructions for how to connect to the meeting remotely will be provided in the meeting announcement on the Pacific Council's website (see www.pcouncil.org).

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Katrina Bernaus, Staff Officer, Pacific Council; telephone: (503) 820–2420, email: katrina.bernaus@pcouncil.org.

SUPPLEMENTARY INFORMATION: In April 2026, the Council adopted an interim final preferred alternative for the sardine stock definition in the CPS FMP's fishery management unit (FMU)

that would amend the CPS FMP to include all Pacific sardine in U.S. waters in the FMU as one stock, delineated coastwide. The next steps for this action include revisions to the FMP to define management provisions, including reference points and harvest control rules for a coastwide Pacific sardine stock. The Pacific Council provided written guidance to schedule a joint meeting involving the Pacific Council's CPS Subcommittee of the Scientific and Statistical Committee (CPSSC of the SSC), the Coastal Pelagic Species Management Team (CPSMT) and the Coastal Pelagic Species Advisory Subpanel (CPSAS). The purpose of this meeting will be to review key management provisions for Pacific sardine, including options for reference points and harvest control rules for a coastwide stock of Pacific sardine. Meeting participants are expected to provide recommendations on appropriate definitions. No management actions will be decided by the meeting participants. The meeting participants' role will be the development of recommendations and reports for consideration by the Pacific Council at its September 2026 meeting in Vancouver, Washington. Meeting participants will also recommend future research topics organized by priority for NMFS and Pacific Council consideration.

The meeting participants will consist of members of the Pacific Council's SSC's CPSSC and the CPSMT. Representatives of the CPSAS will also participate in the review as advisers and staff from the NMFS Southwest Fisheries Science Center and West Coast Regional Office will be available as technical advisors.

Although non-emergency issues not contained in the meeting agendas may be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Visitors to the NMFS Southwest Fisheries Science Center will need to obtain a visitor badge. Visitors are also required to present a REAL ID-compliant form of identification. For instance,

- State-issued identification that is REAL ID-compliant
- Passport

—Enhanced Driver's License
—Federal employee, military, or veteran identification card

Visitor protocols will be provided in the meeting announcement on the Pacific Council's website (see www.pcouncil.org).

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Hayden York (hayden.york@pcouncil.org; 503-820-2424) at least 10 days prior to the meeting date.

(Authority: 16 U.S.C. 1801 *et seq.*)

Dated: June 26, 2026.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026-13194 Filed 6-29-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF843]

Mid-Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic and South Atlantic Fishery Management Councils will hold a public meeting of a Joint Blueline Tilefish Subcommittee.

DATES: The meeting will be held on Monday July 20, 2026, from 9 a.m. to 12:30 p.m. EDT and Wednesday, July 22, 2026, from 9 a.m. to 1 p.m. EDT. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar. Connection information will be posted to the calendar prior to the meeting at <https://www.mafmc.org>.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674-2331; <https://www.mafmc.org>.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526-5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic and South Atlantic Fishery

Management Councils agreed to establish a Joint Blueline Tilefish Subcommittee to help determine the jurisdictional allocation of the blueline tilefish acceptable biological catch (ABC) north of Cape Hatteras, North Carolina. During this meeting, the joint subcommittee will review various data sources available to evaluate potential jurisdictional allocations and recommend an approach for apportioning the ABC between the two jurisdictions. The joint subcommittee recommendations will be presented and reviewed at subsequent meetings by the full Mid-Atlantic and South Atlantic Fishery Management Councils. A detailed agenda and background documents will be made available on the Council's website (<https://www.mafmc.org>) prior to the meeting.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526-5251, at least 5 days prior to the meeting date.

(Authority: 16 U.S.C. 1801 *et seq.*)

Dated: June 26, 2026.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026-13196 Filed 6-29-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF805]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Mackerel, Squid, and Butterfish Monitoring Committee will hold a public meeting.

DATES: The meeting will be held on Wednesday, July 22, 2026, from 9 a.m. until 11 a.m. EDT. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar. Connection information will be posted to the Council's calendar prior to the meeting at <https://www.mafmc.org>.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674-2331; <https://www.mafmc.org>.

FOR FURTHER INFORMATION CONTACT:

Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526-5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council's Mackerel, Squid, and Butterfish Monitoring Committee will meet via webinar. During this meeting the Monitoring Committee will review recent fishery information and recommendations from the Advisory Panel, Scientific and Statistical Committee, and staff. The Monitoring Committee will then review previously adopted 2027 catch and landings limits and other management measures for Atlantic chub mackerel and recommend changes if needed. They will also recommend 2027-2029 catch and landings limits and other management measures, including trip limits, for butterfish.

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shelley Spedden, (302) 526-5251 at least 5 days prior to the meeting date.

(Authority: 16 U.S.C. 1801 *et seq.*)

Dated: June 26, 2026.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026-13195 Filed 6-29-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF696]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Coastal Pelagic Species Fishery; Application for Exempted Fishing Permits; 2026-2027 Fishing Year

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

ACTION: Notice of receipt of application; request for comments.

SUMMARY: The Regional Administrator, West Coast Region, NMFS, has made a preliminary determination that an exempted fishing permit (EFP)

application warrants further consideration. This application, from the California Wetfish Producers Association (CWPA), requests an exemption from the expected prohibition on primary directed fishing for Pacific sardine during the 2026–2027 fishing year as part of industry-based scientific research. This EFP would support continuation of an important time-series of biological data, extend work previously authorized by NMFS, and enable some sales to offset fishing costs and avoid discards. NMFS requests public comment on this application.

DATES: Comments must be received by July 15, 2026.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2026–1288, by the following method:

- **Electronic Submissions:** Submit all public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type NOAA–NMFS–2026–1288 in the Search box. Click the “Comment” icon, complete the required fields, and enter or attach your comments. The EFP application will be available under Supporting and Related Materials through the same link.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT:

Laura Gray, West Coast Region, NMFS, (301) 427–8490, laura.gray@noaa.gov.

SUPPLEMENTARY INFORMATION: Approving this EFP application would be authorized under the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and regulations at 50 CFR 600.745, which allow NMFS Regional Administrators to authorize EFPs for fishing activities that would otherwise be prohibited.

At its April 2026 meeting, the Pacific Fishery Management Council (Council) recommended that NMFS approve an EFP application for the 2026–2027 Pacific sardine fishing year. This application from the CWPA is a request for an exemption from the expected

prohibition on primary directed fishing for Pacific sardine during the 2026–2027 fishing year; the purpose of the EFP is to collect Pacific sardine as part of industry-based scientific research which maintains a continuous time series of fishery-dependent data. This EFP would extend work previously authorized by NMFS across 7 consecutive fishing years.

The Council considered this EFP application concurrently with the 2026–2027 annual harvest specifications for Pacific sardine because Pacific sardine catch under the EFP would be accounted for under the proposed annual catch limit, which is 2,200 metric tons (mt). This EFP requests an allowance of up to 520 mt of Pacific sardine to be harvested during the 2026–2027 fishing year. The primary directed fishery for Pacific sardine has been closed since 2015 and, consequently, scientists at the Southwest Fisheries Science Center (SWFSC) have a limited amount of fishery-dependent data for use in stock assessments. The goal of this EFP project is to continue a time series of fishery-dependent biological data (e.g., age and growth data) for potential use in Pacific sardine stock assessments. If approved, this EFP would allow up to 7 participating vessels to directly harvest up to 520 mt of Pacific sardine during the 2026–2027 fishing year using methods developed in coordination with SWFSC, and consistent with approvals granted since 2020. Harvests under this EFP would occur monthly in nearshore waters of both southern California and the central California coast. A portion of each landing would be retained for biological sampling by the California Department of Fish and Wildlife, and the remainder would be sold by participating fishermen and processors to offset research costs and avoid unnecessary discard.

If NMFS does not issue this EFP, the requested tonnage of 520 mt would be available for harvest by other permissible fishing activities during the 2026–2027 fishing year (e.g., live bait or minor directed harvest).

NMFS may approve and issue permits to participating vessels after publication of this notice in the **Federal Register** and the close of the public comment period. NMFS will consider comments submitted in deciding whether to approve the application as requested. NMFS may approve the application in its entirety or may make any alterations needed to achieve the goals of the EFP project and the CPS FMP. NMFS may also approve different amounts of Pacific sardine for the EFP project if any changes are made to the 2026–2027

proposed sardine harvest specifications before final implementation.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 26, 2026.

Kelly Denit,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–13166 Filed 6–29–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1255]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Joint Consolidation Loan Separation Application

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 July 30, 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: Joint Consolidation Loan Separation Application.

OMB Control Number: 1845–0182.

Type of Review: Revision of a currently approved ICR.

Respondents/Affected Public: Individuals and Households; Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 19,773.

Total Estimated Number of Annual Burden Hours: 6,466.

Abstract: The Joint Consolidation Loan Separation Act (JCLSA), amended the Higher Education Act of 1965, as amended (HEA) to allow joint consolidation co-borrowers to apply to separate an existing joint Direct Consolidation Loan or Federal Consolidation Loan into individual Direct Consolidation Loans. The HEA, as amended by the JCLSA, requires joint consolidation loan borrowers to apply to the U.S. Department of Education if they wish to separate an existing joint consolidation loan into one or more individual Direct Consolidation Loans.

The One Big Beautiful Bill Act (OBBBA) signed into law on July 4, 2025, made statutory changes to Sections 455(d), 455(e), 455(g), and 455(q) that impact the terms and conditions and borrowers' rights and responsibilities for Direct Loans (including consolidation loans) received on or after July 1, 2026. This is a request for a revision of this collection to align with the requirements of the OBBBA.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–13179 Filed 6–29–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1123]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; ESEA Title I, Part C Regulations and Certificate of Eligibility

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before July 30, 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 Jessenia Guerra, (202) 987–1722.

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: ESEA Title I, Part C Regulations and Certificate of Eligibility.

OMB Control Number: 1810–0662.

Type of Review: Revision of a currently approved ICR.

Respondents/Affected Public: Individuals and Households; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 116,316.

Total Estimated Number of Annual Burden Hours: 308,569.

Abstract: The U.S. Department of Education (the Department) requests an

extension with an adjustment to the currently approved information collection OMB No. 1810–0662. This collection of information is necessary to collect information under Title I, Part C of the Elementary and Secondary Education Act of 1965, as amended (ESEA). Program regulations are in 34 CFR 200.81–200.89. This information collection covers regulations with information collection requirements. These requirements pertain to information that State educational agencies must collect in order to properly administer the Title I, Part C program.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–13169 Filed 6–29–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–2377]

Agency Information Collection Activities; Comment Request; Revocation of Consent To Share Federal Tax Information Form

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 August 31, 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–2377. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [regulations.gov](http://www.regulations.gov) site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by

postal mail or delivery should be addressed to 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: Revocation of Consent to Share Federal Tax Information Form.

OMB Control Number: 1845–0177.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 15,300.

Total Estimated Number of Annual Burden Hours: 518.

Abstract: The FUTURE Act allows Federal Student Aid (FSA) to receive customers' Federal Tax Information (FTI) from the Internal Revenue Service (IRS) through the Internal Revenue Code § 6103 for purposes of administering the Free Application for Federal Student Aid (FAFSA®) and income-driven repayment (IDR) plans. Since customers are required to provide consent for this process, we need to provide an option for them to revoke consent. This is a

request for an extension of the currently approved information collection for the form that allows individuals to revoke previous consent for FTI for the purposes of administration of Title IV of the Higher Education Act of 1965, as amended, student financial aid activities.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–13178 Filed 6–29–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1090]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Formula Grant EASIE Electronic Application System for Indian Education

AGENCY: Office of Elementary and Secondary Education (OESE), 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 30, 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 Donna Bussell, 202–453–6813.

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: Formula Grant EASIE Electronic Application System for Indian Education.

OMB Control Number: 1810–0021.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 11,300.

Total Estimated Number of Annual Burden Hours: 4,900.

Abstract: This is an extension request for the Part I of grant applications for the Formula Grants to Local Educational Agencies Program (ALN 84.060A) and includes the Indian Parent Committee Approval form that is a part of the OMB approved 1810–0021 collection. The Indian Education Formula Grant (ALN 84.060A) provides support to LEAs and Indian Tribes in developing elementary school and secondary school programs for all Indian students. Program funding must be used to support comprehensive programs that are designed to meet cultural, language, and academic needs of Indian students and ensure they meet State academic standards. LEAs must develop projects with the participation and written approval of an Indian Parent Committee (IPC) and develop meaningful consultation and ongoing collaboration with nearby Indian Tribes. The instructions in this hard-copy representation of the application package can be used in developing Part I of your application. All applications must be submitted on-time to ED's provided electronic application system.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–13167 Filed 6–29–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Notice of request for comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years, an information collection request with the Office of Management and Budget (OMB). The information collection requests a three-year extension of its collection, titled, State Energy Program, OMB Control Number 1910–5126.

DATES: Comments regarding this proposed information collection must be received on or before August 31, 2026. If you anticipate any difficulty in submitting comments within that period, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible.

ADDRESSES: Written comments may be sent to Gregory Davoren, SCEP–30, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585–0121 or by email at gregory.davoren@doe.gov.

FOR FURTHER INFORMATION CONTACT: Gregory Davoren, SCEP–30, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585–0121 by phone (202) 679–8682 or by email at gregory.davoren@doe.gov.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

This information collection request contains:

- (1) *OMB No.*: 1910–5126.
- (2) *Information Collection Request Titled*: “State Energy Program (SEP)”.
- (3) *Type of Review*: Extension of a Currently Approved Collection.
- (4) *Purpose*: To collect information on the status of grantee activities related to the SEP Annual Appropriations and SEP funding appropriated under the Infrastructure and Jobs Act (IJA)—total activities funded through with grant funds; expenditures; and results, to ensure that program funds are being

used appropriately, effectively and expeditiously.

(5) *Annual Estimated Number of Respondents*: 56.

(6) *Annual Estimated Number of Total Responses*: 744.

(7) *Annual Estimated Number of Burden Hours*: 12,056.

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden*: \$1,002,456. *Statutory Authority*: Title 42, Chapter 77, Subchapter III, Part B of the United States Code (U.S.C.), (42 U.S.C. 6321 *et seq.*). All grant awards made under this program shall comply with applicable laws including, but not limited to, the SEP statutory authority (42 U.S.C. 6321 *et seq.*), 10 CFR part 420, and 2 CFR part 200 as amended by 2 CFR part 910.

Signing Authority

This document of the Department of Energy was signed on June 25, 2026, by Audrey Robertson, Assistant Secretary of Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC on June 26, 2026.

Treena Garrett,

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

[FR Doc. 2026–13170 Filed 6–29–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC26–12–000]

Commission Information Collection Activity (FERC–730); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting

public comment on the currently approved information collection, FERC–730: Report of Transmission Investment Activity. The 60-day notice comment period ended on April 20–2026 with no comments received.

DATES: Comments on the collections of information are due July 30, 2026.

ADDRESSES: Send written comments on FERC–730 to OMB through https://www.reginfo.gov/public/do/PRA/icrPublicCommentRequest?ref_nbr=202604-1902-011. You can also visit <https://www.reginfo.gov/public/do/PRAMain> and use the drop-down under “Currently under Review” to select the “Federal Energy Regulatory Commission” where you can see the open opportunities to provide comments. Comments should be sent within 30 days of publication of this notice.

Please submit a copy of your comments to the Commission via email to DataClearance@FERC.gov. You must specify Docket No. (IC26–12–000) and the FERC Information Collection number (FERC–730) in your email. If you are unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

- *Mail via U.S. Postal Service Only:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
- *All other delivery methods:* Federal Energy Regulatory Commission, Secretary of the Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Docket: To view comments and issuances in this docket, please visit <https://elibrary.ferc.gov/eLibrary/search>. Once there, you can also sign up for automatic notification of activity in this docket.

FOR FURTHER INFORMATION CONTACT:

Kayla Williams may be reached by email at DataClearance@FERC.gov, or by telephone at (202) 502–6468.

SUPPLEMENTARY INFORMATION:

Title: FERC–730, Report of Transmission Investment Activity. *OMB Control No.*: 1902–0239.

Type of Request: Three-year extension of the FERC–730 information collection requirements with no changes to the current reporting requirements.

Abstract: This collection of information assists the Commission in implementing section 219 of the Federal Power Act (FPA) ¹ and 18 CFR 35.35(h), which address incentive-based rate treatments for transmission infrastructure investment. FERC–730 consists of an annual report that includes recent year actual transmission

¹ 16 U.S.C. 824s.

investment, projections of annual investments for the following five years, details on the level and status of transmission investment, and the reasons for delay (if any).

The regulation at 18 CFR 35.35(h) requires public utilities that have been granted incentive rate treatment for specific transmission projects to file FERC Form-730 annually, beginning with the calendar year incentive rate treatment is granted by the Commission. Such filings are due by April 18 of the following calendar year and are due April 18 each year thereafter. The following information must be filed:

(1) In dollar terms, actual transmission investment for the most

recent calendar year, and projected, incremental investments for the next five calendar years; and

(2) For all current and projected investments (except projects with projected costs less than \$20 million) over the next five calendar years, a project-by-project listing that specifies for each project: details of the transmission project, the most up-to-date expected completion date; percentage completion as of the date of filing; and reasons for any delays.

For good cause shown, the Commission may extend the time within which any FERC-730 filing is to be filed or waive the requirements applicable to any such filing.

The Commission uses the FERC-730 information collection to determine an accurate assessment of the state of transmission investment by public utilities.

Type of Respondents: Public utilities that have been granted incentive-based rate treatment for specific transmission projects under provisions of 18 CFR 35.35.

*Estimate of Annual Burden:*² The Commission estimates 64 responses annually, and per-response burdens of 30 hours and \$3,060. The total estimated burdens per year are 1,920 hours and \$195,840. These burdens are itemized in the following table:

A. Number of respondents	B. Annual number of responses per respondent	C. Total number of responses (column A × column B)	D. Average burden & cost per response ³	E. Total annual burden hours & total annual cost (column C × column D)	F. Cost per respondent (\$) (column E ÷ column A)
64	1	64	30 hours; \$3,060	1,920 hours; \$195,840	\$3,060
Totals ....	.....	64	.....	.....	.....

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: June 25, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-13160 Filed 6-29-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

² Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further

Filings Instituting Proceedings

Docket Numbers: RP26-933-000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing: Formula Based Negotiated Rates—7/1/2026 to be effective 7/1/2026.

Filed Date: 6/25/26.

Accession Number: 20260625-5082.

Comment Date: 5 p.m. ET 7/7/26.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

³ The Commission staff estimates that the industry's hourly cost for wages plus benefits is

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502-6595 or OPP@ferc.gov.

Dated: June 25, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-13152 Filed 6-29-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following Accounting Request filings:

Docket Numbers: AC26-89-000.

Applicants: ITC Midwest LLC.

Description: ITC Midwest LLC submits proposed journal entries re purchase of certain electric facilities from Midland Power Cooperative.

Filed Date: 6/25/26.

Accession Number: 20260625-5128.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: AC26-90-000.

Applicants: Michigan Electric Transmission Company, LLC.

similar to the Commission's \$102.00 (\$213,003 annually) FY 2026 average hourly cost for wages and benefits.

Description: Michigan Electric Transmission Company, LLC submits proposed journal entries re purchase of certain electric facilities from Wolverine Power Supply Cooperative Inc.

Filed Date: 6/25/26.

Accession Number: 20260625–5129.

Commn Date: 5 p.m. ET 7/16/26.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL26–84–000; QF26–1177–001.

Applicants: IGS CTS, LLC, IGS CTS, LLC.

Description: Petition for Declaratory Order of IGS CTS, LLC.

Filed Date: 6/23/26.

Accession Number: 20260623–5192.

Commnt Date: 5 p.m. ET 7/23/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–2508–033; ER19–1417–008; ER21–568–006; ER21–577–007.

Applicants: Morgantown Power, LLC, Lanyard Power Holdings, LLC, GenOn Power Midwest, LP, GenOn Energy Management, LLC.

Description: Updated Market Power Analysis for Northeast Region of GenOn Energy Management, LLC, et al.

Filed Date: 6/24/26.

Accession Number: 20260624–5260.

Comment Date: 5 p.m. ET 8/24/26.

Docket Numbers: ER14–1400–005.

Applicants: Seneca Generation, LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective 12/8/2021.

Filed Date: 6/25/26.

Accession Number: 20260625–5130.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER14–1400–006.

Applicants: Seneca Generation, LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective 8/1/2023.

Filed Date: 6/25/26.

Accession Number: 20260625–5134.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER18–803–003.

Applicants: EDF Trading North America, LLC.

Description: Updated Market Power Analysis for Northeast Region of EDF Trading North America, LLC.

Filed Date: 6/24/26.

Accession Number: 20260624–5249.

Comment Date: 5 p.m. ET 8/24/26.

Docket Numbers: ER20–1424–006.

Applicants: Yards Creek Energy, LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective 12/8/2021.

Filed Date: 6/25/26.

Accession Number: 20260625–5136.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER20–1424–007.

Applicants: Yards Creek Energy, LLC.

Description: Compliance filing:

Compliance Filing Regarding Effective Date to be effective 8/1/2023.

Filed Date: 6/25/26.

Accession Number: 20260625–5139.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER20–1776–006.

Applicants: Yards Creek Energy, LLC.

Description: Compliance filing:

Compliance Filing Regarding Cancellation to be effective 12/8/2021.

Filed Date: 6/25/26.

Accession Number: 20260625–5143.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER26–2277–001.

Applicants: DTE Michigan Power, LLC.

Description: Tariff Amendment: Amendment of Notice of Succession to be effective 4/23/2026.

Filed Date: 6/25/26.

Accession Number: 20260625–5149.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER26–2932–000; TS26–5–000.

Applicants: Mammoth Central LLC, Mammoth Central LLC.

Description: Mammoth Central LLC requests waiver of Commission's Open Access Transmission Tariff, Open Access Same-Time Information System, and Standards of Conduct Requirements as applied to interconnection facilities.

Filed Date: 6/23/26.

Accession Number: 20260623–5190.

Comment Date: 5 p.m. ET 7/14/26.

Docket Numbers: ER26–2947–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Amended and Restated Emergency Energy Transactions Agreement between SPP & PSCo to be effective 6/24/2026.

Filed Date: 6/24/26.

Accession Number: 20260624–5190.

Comment Date: 5 p.m. ET 7/15/26.

Docket Numbers: ER26–2948–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4904 Wekiva Grid GIA to be effective 6/11/2026.

Filed Date: 6/25/26.

Accession Number: 20260625–5017.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER26–2949–000; TS26–6–000.

Applicants: Mammoth South LLC, Mammoth South LLC.

Description: Mammoth South LLC requests waiver of Commission's Open Access Transmission Tariff, Open

Access Same-Time Information System, and Standards of Conduct Requirements as applied to interconnection facilities.

Filed Date: 6/23/26.

Accession Number: 20260623–5191.

Comment Date: 5 p.m. ET 7/14/26.

Docket Numbers: ER26–2950–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1894R16 Evergy Kansas Central, Inc. NITSA NOA to be effective 9/1/2026.

Filed Date: 6/25/26.

Accession Number: 20260625–5045.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER26–2951–000.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company, Southern Power Company.

Description: Compliance filing: Alabama Power Company submits tariff filing per 35: Compliance-Southern's Tariff Vol. No. 4-add SPC Affiliate Sales Authorization to be effective 6/2/2026.

Filed Date: 6/25/26.

Accession Number: 20260625–5057.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER26–2952–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1978R16 Evergy Kansas Central, Inc. NITSA NOA to be effective 9/1/2026.

Filed Date: 6/25/26.

Accession Number: 20260625–5058.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER26–2953–000.

Applicants: PacifiCorp. *Description:* § 205(d) Rate Filing: Cove Mountain Storage SI–14 SLGIA (SA No. 1213) to be effective 6/26/2026.

Filed Date: 6/25/26.

Accession Number: 20260625–5059.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER26–2954–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2066R16 Evergy Kansas Central, Inc. NITSA NOA to be effective 9/1/2026.

Filed Date: 6/25/26.

Accession Number: 20260625–5062.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER26–2955–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3215R20 People's Electric Cooperative NITSA NOA to be effective 9/1/2026.

Filed Date: 6/25/26.

Accession Number: 20260625–5064.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER26–2956–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2491R15 Evergy Kansas Central, Inc. NITSA NOA to be effective 9/1/2026.

Filed Date: 6/25/26.
Accession Number: 20260625–5072.
Comment Date: 5 p.m. ET 7/16/26.
Docket Numbers: ER26–2957–000.
Applicants: ISO New England Inc., The Connecticut Light and Power Company, NSTAR Electric Company.
Description: § 205(d) Rate Filing: The Connecticut Light and Power Company submits tariff filing per 35.13(a)(2)(iii): CL&P & NSTAR; Est of 10-Year Depreciation Rate for Account No. 351.2 to be effective 8/24/2026.
Filed Date: 6/25/26.
Accession Number: 20260625–5093.
Comment Date: 5 p.m. ET 7/16/26.
Docket Numbers: ER26–2958–000.
Applicants: Energy Prepay XII, LLC.
Description: Tariff Amendment: Cancellation entire tariff to be effective 6/26/2026.
Filed Date: 6/25/26.
Accession Number: 20260625–5095.
Comment Date: 5 p.m. ET 7/16/26.
Docket Numbers: ER26–2959–000.
Applicants: New York Independent System Operator, Inc.
Description: § 205(d) Rate Filing: NYISO 205: Proposed ICAP Market Parameters for 26–27 Winter Capability Period to be effective 8/25/2026.
Filed Date: 6/25/26.
Accession Number: 20260625–5097.
Comment Date: 5 p.m. ET 7/16/26.
Docket Numbers: ER26–2960–000.
Applicants: Lighthouse Prospect Power, LLC.
Description: Compliance filing: Notice of Succession and Revised Market-Based Rate Tariff to be effective 6/26/2026.
Filed Date: 6/25/26.
Accession Number: 20260625–5103.
Comment Date: 5 p.m. ET 7/16/26.
Docket Numbers: ER26–2961–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: Lexington Solar + BESS LGIA Termination Filing to be effective 6/25/2026.
Filed Date: 6/25/26.
Accession Number: 20260625–5108.
Comment Date: 5 p.m. ET 7/16/26.
Docket Numbers: ER26–2962–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: Wrightsville Solar + BESS LGIA Termination Filing to be effective 6/25/2026.
Filed Date: 6/25/26.
Accession Number: 20260625–5113.

Comment Date: 5 p.m. ET 7/16/26.
Docket Numbers: ER26–2963–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEPTX–BRP Blue Topaz 2 (Two Brothers) Amend Generation Interconnection Agreement to be effective 6/10/2026.
Filed Date: 6/25/26.
Accession Number: 20260625–5132.
Comment Date: 5 p.m. ET 7/16/26.
Docket Numbers: ER26–2964–000.
Applicants: Kentucky Utilities Company.
Description: § 205(d) Rate Filing: Bardstown Revision to Wholesale Rate Schedule to be effective 7/1/2026.
Filed Date: 6/25/26.
Accession Number: 20260625–5147.
Comment Date: 5 p.m. ET 7/16/26.
 Take notice that the Commission received the following electric securities filings:
Docket Numbers: ES26–54–000.
Applicants: El Paso Electric Company (EPE).
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of El Paso Electric Company.
Filed Date: 6/23/26.
Accession Number: 20260623–5129.
Comment Date: 5 p.m. ET 7/14/26.
 The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercensearch.asp>) by querying the docket number.
 Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.
 eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.
 For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov*.

Dated: June 25, 2026.

Carlos D. Clay,
Deputy Secretary.

[FR Doc. 2026–13161 Filed 6–29–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–520–001]

El Paso Natural Gas Company, LLC; Notice of Request for Extension of Time

Take notice that on June 17, 2026, El Paso Natural Gas Company, LLC (EPNG) requested that the Commission grant an extension of time, until October 1, 2026, to complete construction and place into service the Maricopa Lateral Expansion (Project) located in Yavapai County, Arizona. On October 1, 2024, the Commission issued a Notice of Request Under Blanket Authorization, which established a 60-day comment period, ending on December 2, 2024, to file protests. On October 24, 2024, the Haystack Ranch Community and other individuals filed protests regarding the proposed Haystack compressor station's proximity to residences. The protests were not resolved within the 30-day resolution period. The Commission issued an Order Denying Protest and Authorizing Construction on July 24, 2025, denying the protest and authorizing the Project under the blanket certificate regulations.¹ By Rule, the Project should have been constructed and placed into service within one year of the Order date, or by July 24, 2026.

EPNG's current construction activities including ongoing pipe fabrication/x-ray/painting and station yard tie-ins, installation of conduit and cable trays with wire pulling, trench backfilling, pouring concrete for supports, welding, hydrostatic testing, and rip-rap placement on the new access road. EPNG states that it encountered delays associated with securing the necessary easement agreements for the compressor station site and this delay resulted in EPNG not being able to start construction on the Project until December 1, 2025. Therefore, EPNG is requesting extension of time until October 1, 2026, in which to place its Project facilities into service.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on EPNG's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date

¹ *El Paso Natural Gas Company, LLC*, 192 FERC ¶ 61,078 (2025).

stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (NGA) (18 CFR 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for NGA facilities when such requests are contested before order issuance. For those extension requests that are contested,² the Commission will aim to issue an order acting on the request within 45 days.³ The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.⁴ The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act (NEPA).⁵ At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.⁶ The Director of the Office of Energy Projects, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.reference@ferc.gov.

The Commission strongly encourages electronic filings of comments in lieu of paper using the "eFile" link at <http://www.ferc.gov>. In lieu of electronic filing, you may submit a paper copy which must reference the Project docket number.

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502-6595 or OPP@ferc.gov.

Comment Date: 5:00 p.m. Eastern Time on July 10, 2026.

(Authority: 18 CFR 2.1)

Dated: June 25, 2026.

Carlos D. Clay,
Deputy Secretary.

[FR Doc. 2026-13156 Filed 6-29-26; 8:45 am]

BILLING CODE 6717-01-P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Issuance of Staff Implementation Guidance 64.1, Guidance for Implementing SFFAS 64: Management's Discussion and Analysis

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Federal Accounting Standards Advisory Board staff has issued Staff Implementation Guidance (SIG) 64.1 titled *Guidance for Implementing SFFAS 64: Management's Discussion and Analysis*.

ADDRESSES: SIG 64.1 is available on the FASAB website at <http://www.fasab.gov/accounting-standards/>. Copies can be obtained by contacting FASAB at (202) 512-7350.

FOR FURTHER INFORMATION CONTACT: Ms. Monica R. Valentine, Executive Director, 441 G Street NW, Washington, DC 20548, or call (202) 512-7350.

Authority: 31 U.S.C. 3511(d); Federal Advisory Committee Act, 5 U.S.C. 1001-1014.

Dated: June 26, 2026.

Monica R. Valentine,
Executive Director.

[FR Doc. 2026-13138 Filed 6-29-26; 8:45 am]

BILLING CODE 1610-02-P

FEDERAL COMMUNICATIONS COMMISSION

[DA 26-600; FR ID 352400]

Notification of Cancelled Adjustment of Civil Monetary Penalties for Inflation

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Enforcement Bureau of the Federal Communications Commission (Commission) affirms that for 2026 there will be no adjustments of civil forfeiture penalties for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Inflation Adjustment Act) or modifications of the Commission's rules.

DATES: The civil monetary penalties are applicable beginning June 17, 2026.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Hunter Deeley, Chief of Staff and Deputy Bureau Chief, Enforcement Bureau, at (202) 418-2765 or email at hunter.deeley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document (Public Notice), DA 26-600, released on June 17, 2026. The document is available for download at <https://docs.fcc.gov/public/attachments/DA-26-600A1.pdf>. The complete text of this document is also available for inspection and copying during normal business hours in the FCC Reference Information Center, 45 L Street NE, Washington, DC 20554. To request this document in accessible formats for people with disabilities (e.g., Braille, large print, electronic files, audio format, etc.) or to request reasonable accommodations (e.g., accessible format documents, sign language interpreters, CART, etc.), send an email to fcc504@fcc.gov or call the FCC's Consumer and Governmental

² Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1).

³ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

⁴ *Id.* at P 40.

⁵ Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

⁶ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

Affairs Bureau at (202) 418–0530 (voice).

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act) requires the Federal Communications Commission to amend its forfeiture penalty rules to reflect annual adjustments for inflation in order to improve their effectiveness and maintain their deterrent effect. The Inflation Adjustment Act provides that the new penalty levels shall apply to penalties assessed after the effective date of the increase, including when the penalties whose associated violation predate the increase. The adjustments are calculated pursuant to Office of Management and Budget (OMB) guidance. OMB issued guidance on April 17, 2026, cancelling the adjustment for inflation and instructing agencies to continue using the 2025 civil monetary penalty levels as appropriate. The Public Notice follows that guidance. Therefore, the civil monetary penalties set forth in the Commission's rules will remain the same as those for the prior year (2025). This applies only to civil monetary penalties assessed on and after June 17, 2026.

Federal Communications Commission.

Hunter Deeley,

Chief of Staff and Deputy Bureau Chief,
Enforcement Bureau.

[FR Doc. 2026–13163 Filed 6–29–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2026–N–6]

Privacy Act of 1974; System of Records

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, (Privacy Act), the Federal Housing Finance Agency (FHFA or Agency) is establishing a system of records titled, “Mentorship Matching System, FHFA–32.” This system of records allows FHFA to collect and maintain information about FHFA employees who request to be mentors and mentees in the Agency's mentorship program.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records will go into effect without further notice on June 30, 2026, unless

otherwise revised pursuant to comments received. Comments must be received on or before July 30, 2026. FHFA will publish a new notice if the effective date is delayed in order for the Agency to review the comments or if changes are made based on comments received.

ADDRESSES: Submit comments to FHFA, identified by “No. 2026–N–6,” using any one of the following methods:

- *Agency Website:* <https://www.fhfa.gov/regulation/federal-register?comments=open>.
- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comments to the Federal eRulemaking Portal, please also send it by email to FHFA at RegComments@fhfa.gov to ensure timely receipt by FHFA. Please include “Comments/No. 2026–N–6” in the subject line of the message.

- *Hand Delivered/Courier:* The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/No. 2026–N–6, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. The package should be delivered to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m., EST.

- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/No. 2026–N–6, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.*

See **SUPPLEMENTARY INFORMATION** for additional information on submission and posting of comments.

FOR FURTHER INFORMATION CONTACT: Senior Agency Official for Privacy, privacy@fhfa.gov or (202) 649–3803 (not a toll-free number), Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to the contact number above.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA seeks public comments on a new system of records and will take all comments into consideration. Comments, including any personally identifiable information such as name and contact information, will be posted

to the electronic rulemaking docket on the FHFA public website at <https://www.fhfa.gov>, except as described below. Commenters should submit only information that the commenter wishes to make available publicly. FHFA will not redact personally identifiable information once it is submitted. Commenters who do not wish to be identified by their comments may submit their comments anonymously. FHFA may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. FHFA may, in its discretion, redact or refrain from posting all or any portion of any comment that contains content that is obscene, vulgar, profane, or threatens harm. All comments, including those that are redacted or not posted, will be retained in their original form in FHFA's internal file and considered as required by all applicable laws. Commenters who would like FHFA to consider any portion of their comment exempt from disclosure on the basis that it contains trade secrets, or financial, confidential or proprietary data or information, should follow the procedures in section IV.D. of FHFA's *Policy on Communications with Outside Parties in Connection with FHFA Rulemakings*, see https://www.fhfa.gov/sites/default/files/documents/Ex-Parte-Communications-Public-Policy_3-5-19.pdf. FHFA cannot guarantee that such data or information will remain confidential if disclosure is sought pursuant to an applicable statute or regulation. See 12 CFR 1202.8, 12 CFR 1214.2, and FHFA's *FOIA Reference Guide* at <https://www.fhfa.gov/about/foia-reference-guide> for additional information.

II. Introduction

This notice informs the public of FHFA's proposal to establish and maintain a new system of records. Publication of this notice satisfies the Privacy Act requirement that an agency publish a system of records notice in the **Federal Register** when establishing a new system of records. In accordance with the Privacy Act, 5 U.S.C. 552a(r), and pursuant to section 7 of Office of Management and Budget (OMB) Circular No. A–108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act*, prior to publication of this notice, FHFA submitted a report describing the system of records to the OMB, the Committee on Oversight and Government Reform of the House of Representatives, and the

Committee on Homeland Security and Governmental Affairs of the Senate.

III. New System of Records

The information in this system of records will be used to administer FHFA's mentorship program by facilitating employee interactions that promote professional growth, career development, knowledge sharing, and leadership advancement. The new system of records is described in detail below.

SYSTEM NAME AND NUMBER:

Mentorship Matching System, FHFA–32.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, and any alternate work site used by employees of FHFA, including contractors assisting agency employees, FHFA-authorized service providers, and FHFA-authorized contractor networks located within the Continental United States.

SYSTEM MANAGER(S):

Chief, Workforce Relations and Development Branch, Office of Human Resources Management; *ELR@fhfa.gov*; Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 41; 12 U.S.C. 4513(a)(2)(B); 5 CFR part 410; 5 CFR 412.202.

PURPOSE(S) OF THE SYSTEM:

Records in the Mentorship Matching System, FHFA–32, are collected and maintained to facilitate, document, and track all mentorship requests and assignments. The information in the system will be used to determine matches for mentorship relationships and facilitate communication between mentors and mentees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system are current FHFA employees who request to participate and voluntarily serve as mentors or mentees in the Agency's mentorship program. The supervisors or managers of the participating employees are also covered by this system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained in the system include employee identifying information such as name, photograph,

work contact information, job title, program or office, work location, work experience, professional certifications, and other personal and career-related details typically found in a resume. Additional categories of records include self-identified skills and competencies of mentors, areas of professional interest, mentorship matching and assignment information, and progress updates on the development of the mentorship relationship.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individuals who participate in the mentorship program, and from FHFA's internal system that manages employee identification and account access.

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, these records and information contained therein may specifically be disclosed outside of FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows, to the extent such disclosures are compatible with the purposes for which the information was collected:

1. To appropriate agencies, entities, and persons when—(a) FHFA suspects or has confirmed that there has been a breach of the system of records; (b) FHFA has determined that as a result of a suspected or confirmed breach there is a risk of harm to individuals, FHFA (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure is made to agencies, entities, and persons as reasonably necessary to assist with FHFA's efforts to (i) respond to a suspected or confirmed breach; or (ii) prevent, minimize, or remedy harm caused by such breach.

2. To a Federal agency or Federal entity, when FHFA determines information from the system of records is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or (b) 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 to national security, resulting from a suspected or confirmed breach.

3. When there is an indication of a violation or potential violation of law (whether civil, criminal, or regulatory in nature or whether arising by general statute or particular program statute or

by regulation, rule, or order issued pursuant thereto), the relevant records in the system of records may be referred, as a routine use, to the appropriate agency (e.g., federal, state, local, tribal, foreign or a financial regulatory organization) charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, rule, regulation or order issued pursuant thereto.

4. To any contractor, agent, or other authorized individual performing work on a contract, service, cooperative agreement, job, or other activity on behalf of FHFA who has a need to access the information in the performance of their official duties or activities.

5. To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

6. To a court, magistrate, or administrative tribunal, including disclosures to opposing counsel or witnesses, shared in the course of discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction if the requested information is relevant and necessary to the pending judicial or administrative proceeding.

7. To appropriate third parties contracted by FHFA to facilitate mediation or other dispute resolution procedures or programs, where the record is relevant to the dispute and the dispute is related to the purpose for which the record was collected.

8. To outside counsel contracted by FHFA, U.S. Department of Justice (DOJ) (including United States Attorney Offices), or other Federal agencies conducting litigation or in proceedings before any court, or adjudicative or administrative body, when it is relevant and necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation or proceeding: a. FHFA; b. Any employee of FHFA in his/her official capacity; c. Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or d. The United States or any agency thereof that is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation.

9. To the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

10. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is relevant and necessary to such audit or oversight functions.

11. To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

12. To Federal officials designated by the President or the heads of Federal agencies (as defined in 44 U.S.C. 3502) for the purpose of identifying and eliminating waste, fraud, and abuse in accordance with Executive Order 14243.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The records are maintained in electronic format. Electronic records are stored on FHFA's secured network, the networks of FHFA-authorized cloud service providers, and/or FHFA-authorized contractor networks located within the Continental United States.

POLCIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

The records are retrieved by the employee's name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The records are retained and managed in accordance with FHFA's Comprehensive Records Schedule and the National Archives and Records Administration's General Records Schedule. Records are destroyed or deleted according to the retention schedule associated with the relevant records schedule, but longer retention is authorized for business use and any applicable legal holds. Records in electronic media are electronically erased using accepted techniques.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are safeguarded in a secure environment and protected by controlled access procedures through the use of role-based access controls and other information technology security measures. FHFA buildings where records and computerized systems are stored have security cameras and 24-hour security guard service. Access to records is restricted to only FHFA staff (and FHFA contractors assisting such staff) in the performance of official duties related to the purposes for which the system of records is maintained.

RECORD ACCESS PROCEDURES:

Individuals seeking access to and/or amendment of records about themselves

contained in this system of records should follow the "Notification Procedures" below.

CONTESTING RECORD PROCEDURES:

Individuals seeking access to and/or amendment of records about themselves contained in this system of records should follow the "Notification Procedures" below.

NOTIFICATION PROCEDURES:

Individuals seeking notification of any records about themselves contained in this system of records should address their inquiry to the Privacy Act Officer via email to Privacy@fhfa.gov, by mail to the Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, or in accordance with the procedures set forth in 12 CFR part 1204. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.*

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Clinton Jones,

General Counsel, Federal Housing Finance Agency.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[NIOSH Docket 094]

World Trade Center Health Program; Petitions 024, 042, 046, 047, 051, 056, 058, and 067—Ischemic Heart Disease; Finding of Insufficient Evidence

AGENCY: Centers for Disease Control and Prevention, Department of Health and Human Services.

ACTION: Denial of petitions for addition of a health condition.

SUMMARY: The Administrator of the World Trade Center Health Program received eight petitions (Petitions 024, 042, 046, 047, 051, 056, 058, and 067) to add conditions under the broad category of ischemic heart disease to the List of WTC-Related Health Conditions. Upon reviewing the literature, including information provided by petitioners, the Administrator has determined that there

is insufficient evidence to support taking further action at this time regarding ischemic heart disease. The Administrator finds insufficient evidence exists to request a recommendation of the WTC Health Program Scientific/Technical Advisory Committee, publish a proposed rule, or publish a determination not to publish a proposed rule.

DATES: The Administrator of the WTC Health Program is denying these petitions for the addition of a health condition as of June 30, 2026.

ADDRESSES: Visit the WTC Health Program website at <https://www.cdc.gov/wtc/received.html> to review Petitions 024, 042, 046, 047, 051, 056, 058, and 067.

FOR FURTHER INFORMATION CONTACT:

Rachel Weiss, Program Analyst, 1090 Tusculum Avenue, MS: C–48, Cincinnati, OH 45226; telephone (404) 498–2500 (this is not a toll-free number); email NIOSHregs@cdc.gov.

SUPPLEMENTARY INFORMATION:

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A. WTC Health Program Statutory Authority

Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347, as amended by Pub. L. 114–113, Pub. L. 116–59, Pub. L. 117–328, Pub. L. 118–31, and Pub. L. 119–75) added Title XXXIII to the Public Health Service (PHS) Act,¹ establishing the World Trade Center (WTC) Health Program within the Department of Health and Human Services (HHS). The WTC Health Program provides medical monitoring and treatment benefits for health conditions on the List of WTC-Related Health Conditions (List)² to eligible firefighters and related personnel; law

¹ Title XXXIII of the PHS Act is codified at 42 U.S.C. 300mm to 300mm–64. Those portions of the James Zadroga 9/11 Health and Compensation Act of 2010 found in Titles II and III of Public Law 111–347 do not pertain to the WTC Health Program and are codified elsewhere.

² The List of WTC-Related Health Conditions is established in 42 U.S.C. 300mm–22(a)(3)–(4) and 300mm–32(b); additional conditions may be added through rulemaking and the complete list is provided in WTC Health Program regulations at 42 CFR 88.15.

enforcement officers; and rescue, recovery, and cleanup workers who responded to the September 11, 2001, terrorist attacks in New York City, at the Pentagon, and in Shanksville, Pennsylvania (responders). The Program also provides benefits to eligible persons who were present in the dust or dust cloud on September 11, 2001, or who worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area ³(survivors).

All references to the Administrator of the WTC Health Program (Administrator) in this document mean the Director of the National Institute for Occupational Safety and Health (NIOSH) or his designee.

In accordance with section 3312(a)(6)(B) of the PHS Act, interested parties may petition the Administrator to add a health condition to the List in 42 CFR 88.15. Within 90 days after receipt of a valid petition to add a condition to the List, the Administrator must take one of the following four actions described in section 3312(a)(6)(B) of the PHS Act and § 88.16(a)(2) of the WTC Health Program regulations: (1) request a recommendation of the STAC; (2) publish a proposed rule in the **Federal Register** to add such health condition; (3) publish in the **Federal Register** the Administrator's determination not to publish such a proposed rule and the basis for such determination; or (4) publish in the **Federal Register** a determination that insufficient evidence exists to take action under (1) through (3) above.

More information about the WTC Health Program, including the List and the petition process, is available at www.cdc.gov/wtc/.

B. Procedures for Evaluating a Petition

In addition to the regulatory provisions, the WTC Health Program has developed policies to guide the review of submissions and petitions, as well as the analysis of evidence supporting the potential addition of a non-cancer health condition to the List.

A valid petition must include sufficient medical basis for the association between the September 11, 2001, terrorist attacks and the health condition to be added. In accordance with WTC Health Program *Policy and Procedures for Handling Submissions and Petitions to Add a Health Condition to the List of WTC-Related Health Conditions*,⁴ reference to a peer-

reviewed, published, epidemiologic study about the health condition among 9/11-exposed populations or to clinical case reports of health conditions in WTC responders or survivors may demonstrate the required medical basis.⁵ Studies linking 9/11 agents or hazards⁶ to the petitioned health condition may also provide sufficient medical basis for a valid petition.⁷ In accordance with 42 CFR 88.16(a)(5), the Administrator is required to consider a new petition for a previously evaluated health condition determined not to qualify for addition to the List only if the new petition presents a new medical basis for the association between 9/11 exposures and the condition to be added. A new medical basis is evidence not previously reviewed by the Administrator.

After the Program has determined that a petition is valid, and in accordance with the *Policy and Procedures for Adding Non-Cancer Conditions to the List of WTC-Related Health Conditions (Policy and Procedures)*,⁸ the Administrator directs the WTC Health Program Science Team (Science Team) to conduct a review of the scientific literature. The literature review includes a keyword search of relevant scientific databases intended to identify peer-reviewed, published, epidemiologic studies about the health condition among 9/11-exposed populations.

The Science Team evaluates the scientific quality of each peer-reviewed, published, epidemiologic study of the health condition identified in the literature search using validity indicators detailed in the *Policy and Procedures*.⁹ Studies exhibiting sufficient validity indicators have the potential to provide a basis for deciding

whether to propose adding the health condition to the List and are considered “high-quality” studies. The Science Team then evaluates the identified high-quality studies, individually and together, to characterize the evidence of a causal association between 9/11 exposures and the health condition. As part of this evaluation, the Science Team considers the Bradford Hill weight of evidence criteria,¹⁰ study limitations, and whether the studies are representative of the 9/11-exposed population of responders and survivors. After evaluating the totality of the evidence, the Science Team assesses the degree to which the evidence supports a causal association between 9/11 exposures and the health condition and assigns the evidence to one of the following five categories:

- Category I Evidence supports substantial likelihood of causal association
- Category II Evidence supports high likelihood of causal association
- Category III Evidence supports limited likelihood of causal association
- Category IV Evidence does not support causal association
- Category V Evidence is inadequate to determine the likelihood of causal association

The Science Team provides the outcome of its evaluation to the Administrator. A health condition may be added to the List if peer-reviewed, published, epidemiologic studies provide support that there is a substantial likelihood of a causal association between 9/11 exposures and the health condition (Category I).¹¹ If the evaluation of evidence provided in peer-reviewed, published, epidemiologic studies of the health condition in 9/11 populations shows a high, but not substantial, likelihood of a causal association between the 9/11 exposures and the health condition (Category II),¹²

Related Health Conditions, January 22, 2026, https://www.cdc.gov/wtc/pdfs/policies/PNP_SubmissionsPetitions%20_20260122-508.pdf.

⁵ *Id.* at 7.

⁶ 9/11 agents are chemical, physical, biological, or other hazards reported in a published, peer-reviewed exposure assessment study of responders, recovery workers, or survivors who were present in the New York City disaster area, or at the Pentagon site, or the Shanksville, Pennsylvania site, as those locations are defined in 42 CFR 88.1, as well as those hazards not identified in a published, peer-reviewed exposure assessment study, but which are reasonably assumed to have been present at any of the three sites. See WTC Health Program [2018], *Development of the Inventory of 9/11 Agents*, July 17, 2018, https://www.cdc.gov/WTC/pdfs/policies/Development_of_the_Inventory_of_9-11_Agents_20180717.pdf.

⁷ *Supra* note 4 at 7.

⁸ See WTC Health Program [2026], *Policy and Procedures for Adding Non-Cancer Conditions to the List of WTC-Related Health Conditions*, May 14, 2026, https://www.cdc.gov/wtc/pdfs/policies/WTCHP_PP_Adding_NonCancer_Health_Conditions_20260514.pdf.

⁹ *Id.* at 7.

¹⁰ Hill AB [1965], *The Environment and Disease: Association or Causation?* *Proc R Soc Med* 58(5):295–300. According to the *Policy and Procedures*, the Bradford Hill criteria are a “leading weight of evidence framework” which “comprises nine aspects of association. These aspects comprise strength of association, consistency, specificity, temporality, biological gradient, plausibility, coherence, experiment, and analogy.” See *supra* note 8 at 9–10 and discussion of Bradford Hill analysis at footnote 21.

¹¹ *Substantial likelihood of causal association* means that the association is strongly supported by evidence from high-quality, peer-reviewed, published epidemiologic studies of the health condition in 9/11-exposed populations and there is high confidence that the association cannot be explained by chance, bias, confounding, or any other alternative explanation. See *supra* note 8 at 12.

¹² *High likelihood of causal association* means that the scientific evidence, taken as a whole,

Continued

³ See 42 U.S.C. 300mm–5(8); 42 CFR 88.1.

⁴ See WTC Health Program [2026], *Policy and Procedures for Handling Submissions and Petitions to Add a Health Condition to the List of WTC-*

then the Administrator may consider additional highly relevant scientific evidence regarding exposures to 9/11 agents in non-9/11 exposure scenarios. If that additional assessment establishes that there is now sufficient evidence to support the conclusion that a causal association between the 9/11 exposures and the health condition is substantially likely among 9/11-exposed populations (Category I), then the Administrator may propose the health condition for addition to the List.

C. Petitions 024, 042, 046, 047, 051, 056, 058, and 067

Between October 2019 and September 2025, the Administrator received eight submissions determined to be valid petitions in accordance with the *Policy and Procedures for Handling Submissions and Petitions to Add a Health Condition to the List of WTC-Related Health Conditions*.¹³ The Administrator exercised his discretion to group these petitions together because they each requested the addition of health conditions falling under the broad category of ischemic heart disease (IHD), a subset of cardiovascular diseases (CVD), as discussed below. The medical basis for each petition is described below.

On October 3, 2019, the Administrator received a petition (Petition 024) requesting the addition of “cardiovascular disease, including myocardial infarction, CABG [coronary artery bypass graft] and angioplasty” to the List. The petition’s validity was established by reference to one peer-reviewed, published, epidemiologic study that demonstrates a medical basis for the association between 9/11 exposures and IHD. The following referenced study established a medical basis:

- *Long-Term Cardiovascular Disease Risk among Firefighters after the World Trade Center Disaster*, by Cohen et al. [2019],¹⁴ a peer-reviewed, published longitudinal cohort study designed to assess whether 9/11 exposures were associated with elevated CVD risk, including but not limited to myocardial

infarction, stroke, unstable angina, coronary artery surgery or angioplasty, congestive heart failure, CVD death, stable angina, and cardiomyopathy in Fire Department of New York (FDNY) firefighters. The study found that positive associations were observed between CVDs and 9/11 exposures related to time of arrival and length of response.

This study suggests a potential association between exposure to 9/11 agents (specifically WTC dust) and IHD and thus provided a sufficient medical basis to consider the submission a valid petition.

On January 23, 2023, the Administrator received a petition (Petition 042) requesting the addition of “cardiovascular disease” to the List. The petition’s validity was established by references to five peer-reviewed, published, epidemiologic studies that demonstrate a positive association between 9/11 exposures and IHD. The referenced studies individually establishing sufficient medical basis are as follows:

- *Injury, Intense Dust Exposure, and Chronic Disease among Survivors of the World Trade Center Terrorist Attacks on September 11, 2001*, by Alper et al. [2017],¹⁵ a peer-reviewed, published longitudinal study of WTC Health Registry enrollees who had acute exposure to WTC dust/debris or experienced a traumatic injury on September 11, 2001, and self-reported four health outcomes, including the CVDs angina/myocardial infarction. An injury sustained on September 11, 2001, is considered a 9/11 exposure; such exposures were found to be predictive of angina/myocardial infarction, but angina/myocardial infarction was not associated with intense dust cloud exposure.

- *Post-Traumatic Stress Disorder and Cardiovascular Diseases: A Cohort Study of Men and Women Involved in Cleaning the Debris of the World Trade Center Complex*, by Remch et al. [2018],¹⁶ a peer-reviewed, published longitudinal study of WTC Health Program members who were first responders on or after September 11, 2001, examining whether PTSD is a risk factor for myocardial infarction and

stroke (combined). The study reported hazard ratios for several 9/11 exposure measures and myocardial infarction/stroke outcome. Some of the hazard ratios were increased and some not, but none were statistically significant after adjustment for the presence of PTSD.

- *Long-Term Cardiovascular Disease Risk among Firefighters after the World Trade Center Disaster*, by Cohen et al. [2019],¹⁷ described above.

- *Cardiovascular Disease in the World Trade Center Health Program General Responder Cohort*, by Sloan et al. [2021],¹⁸ a peer-reviewed, published prospective cohort study designed to examine the annual and cumulative incidence of CVD, including coronary artery disease, myocardial infarction, stroke, and congestive heart failure, among the WTC Health Program general responder cohort (GRC). The study reported increased CVD risk in males and females exposed to the WTC dust cloud compared to those who were not exposed to the dust cloud (*i.e.*, arrived on or after September 12, 2021).

- *Health Effects Following Exposure to Dust from the World Trade Center Disaster: An Update*, by Mears et al. [2022],¹⁹ is a non-systematic review study that summarized health effects arising from 9/11-related exposures, including cardiovascular effects, in WTC rescue and recovery workers and survivors of the attacks. The authors concluded that the long-term health effects, including cardiovascular effects, arising from 9/11 exposures remain unclear and that more study is needed.

These five studies suggest a potential association between exposure to 9/11 agents (injury on September 11, 2001, and WTC dust) and CVD and thus provided a sufficient medical basis to consider the submission a valid petition.

On June 15, 2023, the Administrator received a petition (Petition 046) requesting the addition of “cardiomyopathy” to the List. The petition’s validity was established by reference to the peer-reviewed, published, epidemiologic study by Cohen et al. [2019], *Long-Term*

demonstrates that the likelihood of a causal association is less than substantial, but definitively more than limited. Therefore, there is some meaningful likelihood that the association can be explained by chance, bias, confounding, or another alternative explanation. See *supra* note 8 at 12.

¹³ See Petitions 024, 042, 046, 047, 051, 056, 058, and 067, *WTC Health Program: Petitions Received*, <http://www.cdc.gov/wtc/received.html>.

¹⁴ Cohen HW, Zeig-Owens R, Joe C, Hall CB, Webber MP, Weiden MD, Cleven KL, Jaber N, Skerker M, Yip J, Schwartz T, Prezant DJ [2019], *Long-Term Cardiovascular Disease Risk among Firefighters after the World Trade Center Disaster*, JAMA Netw Open 2(9):e199775.

¹⁵ Alper HE, Yu S, Stellman SD, Brackbill RM [2017], *Injury, Intense Dust Exposure, and Chronic Disease among Survivors of the World Trade Center Terrorist Attacks of September 11, 2001*, Inj Epidemiol 4:17.

¹⁶ Remch M, Laskaris Z, Flory J, Mora-McLaughlin C, Morabia A [2018], *Post-Traumatic Stress Disorder and Cardiovascular Diseases: A Cohort Study of Men and Women Involved in Cleaning the Debris of the World Trade Center Complex*, Circ Cardiovasc Qual Outcomes 11(7):e004572.

¹⁷ Cohen HW, Zeig-Owens R, Joe C, Hall CB, Webber MP, Weiden MD, Cleven KL, Jaber N, Skerker M, Yip J, Schwartz T, Prezant DJ [2019], *Long-Term Cardiovascular Disease Risk among Firefighters after the World Trade Center Disaster*, JAMA Netw Open 2(9):e199775.

¹⁸ Sloan NL, Shapiro MZ, Sabra A, Dasaro CR, Crane MA, Harrison DJ, Luft BJ, Moline JM, Udasin IG, Todd AC, Teitelbaum SL [2021], *Cardiovascular Disease in the World Trade Center Health Program General Responder Cohort*, Am J Ind Med 64:97–107.

¹⁹ Mears MJ, Aslaner DM, Barson CT, Cohen MD, Gorr MW, Wold LE [2022], *Health Effects Following Exposure to Dust from the World Trade Center Disaster: An Update*, Life Sci 289:120147.

Cardiovascular Disease Risk among Firefighters after the World Trade Center Disaster, described above.

On September 3, 2023, the Administrator received a petition (Petition 047) requesting the addition of “cardiovascular diseases,” including “myocardial infarction, unstable angina, obstructive coronary artery disease, ischemic cardiomyopathy, ischemic congestive heart failure, arrhythmias (due to any of the above), stroke, and peripheral vascular disease” to the List. The petition’s validity for those health conditions grouped together by the Administrator as related to CVD was established by reference to 14 studies that provided sufficient medical basis. To ensure a comprehensive scientific evaluation of the requested health conditions—each of which are associated with a large volume of peer-reviewed, published, scientific studies—the Administrator directed the Science Team to review the scientific evidence for the requested health conditions in three separate evaluations pertaining to conditions: (1) affecting oxygen supply to the heart (*i.e.*, ischemia); (2) affecting blood supply to the brain (*i.e.*, ischemic and hemorrhagic stroke); and (3) affecting the peripheral artery system.²⁰

Among the 14 studies establishing sufficient medical basis for Petition 047 were the four peer-reviewed, published, epidemiologic studies described above: *Injury, Intense Dust Exposure, and Chronic Disease among Survivors of the World Trade Center Terrorist Attacks on September 11, 2001*, by Alper et al. [2017], *Long-Term Cardiovascular Disease Risk among Firefighters after the World Trade Center Disaster*, by Cohen et al. [2019], *Post-Traumatic Stress Disorder and Cardiovascular Diseases: A Cohort Study of Men and Women Involved in Cleaning the Debris of the World Trade Center Complex*, by Remch et al. [2018], and *Cardiovascular Disease in the World Trade Center Health Program General Responder Cohort*, by Sloan et al. [2021]. The other 10 studies providing sufficient medical basis comprised 6 additional peer-reviewed, published, epidemiologic studies of cardiovascular diseases in the 9/11-exposed population, and four additional citations supporting positive associations between environmental particulates and chemicals that are considered 9/11 agents and exposure-related CVDs. These 10 studies also

providing sufficient medical basis are described below:

- *Particulate Matter Air Pollution and Cardiovascular Disease: An Update to the Scientific Statement from the American Heart Association*, by Brook et al. [2010],²¹ is an updated scientific statement providing a comprehensive review of evidence linking exposure to particulate matter <2.5 micrometers in diameter (PM_{2.5}). The paper also briefly discussed other 9/11 agents such as nitrogen oxide and dioxide (NO_x), carbon monoxide (CO), and ozone (O₃), associated with CVD. The review found evidence of a causal relationship between PM_{2.5} exposures and cardiovascular disease-related morbidity and mortality.

- *Expert Position Paper on Air Pollution and Cardiovascular Disease*, by Newby et al. [2015],²² is a consensus document that evaluated the evidence linking air pollution (comprising the 9/11 agents PM_{2.5} and PM₁₀, ozone, nitrogen dioxide [NO₂], volatile organic compounds (including benzene), carbon monoxide [CO], and sulfur dioxide [SO₂]) to CVD (*i.e.*, coronary artery disease, heart failure, myocardial infarction, atherosclerosis, thrombosis). The authors concluded that air pollution increases the risk of CVD and related mortality, outlined potential biological mechanisms underlying this relationship and determined that air pollution should be considered a modifiable risk factor for CVD.

- *Association between Air Pollution and Coronary Artery Calcification within Six Metropolitan Areas in the USA (the Multi-Ethnic Study of Atherosclerosis and Air Pollution): A Longitudinal Cohort Study*, by Kaufman et al. [2016],²³ is a 10-year cohort study

of participants in the Multi-Ethnic Study of Atherosclerosis and Air Pollution (MESA Air). This study assessed the association between long-term exposure to ambient air pollution, including the 9/11 agents PM_{2.5}, NO_x, and elemental carbon, and accelerated atherosclerosis, as demonstrated by the progression of coronary artery calcium scores which is used as a diagnostic marker for coronary artery disease risk. The study found that PM_{2.5} and NO_x, but not elemental carbon, have a strong positive association with accelerated atherosclerosis in the coronary arteries.

- *Estimates and 25-Year Trends of the Global Burden of Disease Attributable to Ambient Air Pollution: An Analysis of Data from the Global Burden of Diseases Study 2015*, by Cohen et al. [2017],²⁴ examined trends in morbidity and mortality related to ambient air pollution (PM_{2.5}) from 1990 to 2015. The authors found that ambient PM_{2.5} was the fifth-ranked risk factor for global deaths in 2015, with CVD (comprising IHD and cerebrovascular disease) accounting for most of those deaths.

- *A Joint ERS/ATS Policy Statement: What Constitutes an Adverse Health Effect of Air Pollution? An Analytical Framework*, by Thurston et al. [2017],²⁵ is a joint European Respiratory Society/American Thoracic Society policy statement on what constitutes an adverse health effect of air pollution. It provides an analytical framework for interpreting scientific evidence on the health effects of air pollution for risk management purposes. The statement provides a non-systematic review, including a review of the adverse CVD effects from exposure to PM_{2.5}.

- *Ambient Air Quality and Cardiovascular Health: Translation of Environmental Research for Public*

[2016], *Association between Air Pollution and Coronary Artery Calcification within Six Metropolitan Areas in the USA (the Multi-Ethnic Study of Atherosclerosis and Air Pollution): A Longitudinal Cohort Study*, The Lancet 388(10045):696–704.

²⁴ Cohen AJ, Brauer M, Burnett R, Anderson R, Frostad J, Estep K, Balakrishnan K, Brunekreef B, Dandona L, Dandona R, Feigin V, Freedman G, Hubbell B, Jobling A, Kan H, Knibbs L, Liu Y, Martin R, Morawska L, Pope A, Forouzanfar MH [2017], *Estimates and 25-Year Trends of the Global Burden of Disease Attributable to Ambient Air Pollution: An Analysis of Data from the Global Burden of Diseases Study 2015*, The Lancet 389(10082):1907–1918.

²⁵ Thurston GD, Kipen H, Annesi-Maesano I, Balmes J, Brook RD, Cromar K, DeMatteis S, Forastiere F, Forsberg B, Frampton MW, Grigg J, Heederik D, Kelly FJ, Kuenzli N, Laumbach R, Peters A, Rajagopalan ST, Rich D, Ritz B, Samet JM, Sandstrom T, Sigsgaard T, Sunyer J, Brunekreef B [2017], *A Joint ERS/ATS Policy Statement: What Constitutes an Adverse Health Effect of Air Pollution? An Analytical Framework*, Eur Respir J 49(1):1600419.

²⁰ Stroke will be considered in a separate evaluation under a new ordinal number, Petition 048. Peripheral vascular (artery) disease will be evaluated separately under a new ordinal number as Petition 048a.

²¹ Brook RD, Rajagopalan S, Pope CA, Brook JR, Bhatnagar A, Diez-Roux AV, Holguin F, Hong Y, Luepker RV, Mittleman MA, Peters A, Siscovick D, Smith SC, Whittle L, Kaufman JD, and on behalf of the American Heart Association Council on Epidemiology and Prevention, Council on the Kidney in Cardiovascular Disease, and Council on Nutrition, Physical Activity and Metabolism [2010], *Particulate Matter Air Pollution and Cardiovascular Disease: An Update to the Scientific Statement from the American Heart Association*, Circulation 121(21):2331–2378.

²² Newby DE, Mannucci PM, Tell GS, Baccarelli AA, Brook RD, Donaldson K, Forastiere F, Franchini M, Franco OH, Graham I, Hoek G, Hoffmann B, Hoylelaerts MF, Kunzli N, Mills N, Pekkanen J, Peters A, Piepoli MF, Rajagopalan S, Storey RF, on behalf of ESC Working Group on Thrombosis, European Association for Cardiovascular Prevention and Rehabilitation and ESC Heart Failure Association [2014], *Expert Position Paper on Air Pollution and Cardiovascular Disease*, Eur Heart J 36(2):83–93.

²³ Kaufman JD, Adar SD, Barr RG, Budoff M, Burke GL, Curl CL, Daviglius ML, Diez-Roux AV, Gassett AJ, Jacobs DR, Kronmal R, Larson TV, Navas-Acien A, Olives C, Sampson PD, Sheppard L, Siscovick DS, Stein JH, Szpiro AA, Watson KE

Health and Clinical Care, by Cascio and Long [2018],²⁶ is a non-systematic review on the CVD effects of air pollution. The review reported that PM_{2.5} are associated with increased severity of coronary artery disease and a higher likelihood of having a myocardial infarction in the previous year.

- *Mortality among Rescue and Recovery Workers and Community Members Exposed to the September 11, 2001 World Trade Center Terrorist Attacks, 2003–2014*, by Jordan et al. [2018],²⁷ is a cohort study that evaluated heart disease mortality (*i.e.*, rheumatic heart disease, hypertension with heart disease, IHD, chronic disease of endocardium, cardiomyopathy, conductive disorder, and other disease of the heart) occurring between 2003 and 2014 among WTC Health Registry members. The study found that higher levels of exposure to WTC dust were positively associated with heart disease in responders and survivors.

- *Integrated Science Assessment (ISA) for Particulate Matter*, by EPA's Center for Public Health and Environmental Assessment [2019],²⁸ is a detailed integrated science assessment that examined the impact of PM, including PM_{2.5}, on various CVD outcomes. The assessment concluded that there is sufficient evidence to support a causal relationship between both short-term (hours to approximately 1 month) and long-term (1 month to years) exposure to PM_{2.5} and adverse cardiovascular outcomes, including IHD.

- *Cardiopulmonary Impact of Particulate Air Pollution in High-Risk Populations: JACC State-of-the-Art Review*, by Newman et al. [2020], is a Journal of the American College of Cardiology (JACC) state-of-the-art review of the cardiopulmonary impact of PM in high-risk populations. It recognized that air pollution, including PM_{2.5}, poses CVD risks. The authors proposed actions to reduce those CVD risks and suggested methods to study the effectiveness of those actions.

- *A 15-Year Follow-Up Study of Mortality in a Pooled Cohort of World Trade Center Rescue and Recovery*

Workers, by Li et al. [2023],²⁹ a longitudinal cohort study of mortality patterns in FDNY, WTC Health Registry, and GRC responders over 15 years. The study found an elevated risk of heart disease-related mortality in GRC responders and certain Registry enrollees (*i.e.*, those Registry enrollees who were not FDNY nor GRC members) who first experienced 9/11 exposures between September 11 and 17, 2001, compared with those who were first exposed later.

Together, the 14 peer-reviewed, published epidemiologic studies provided a medical basis demonstrate a positive association between 9/11 exposures and myocardial infarction, unstable angina, obstructive coronary artery disease, ischemic cardiomyopathy, ischemic congestive heart failure, arrhythmias, and stroke in 9/11-exposed populations.

On November 1, 2023, the Administrator received a petition (Petition 051) requesting the addition of “Cardiovascular Diseases,” including “Coronary Artery Disease, Myocardial Infarction, Stroke and Congestive Heart Failure” to the List. The petition's validity for all of the requested health conditions grouped together by the Administrator as related to CVD was established by reference to three of the peer-reviewed, published, epidemiologic studies described above: *Post-Traumatic Stress Disorder and Cardiovascular Diseases: A Cohort Study of Men and Women Involved in Cleaning the Debris of the World Trade Center Complex*, by Remch et al. [2018], *Long-Term Cardiovascular Disease Risk among Firefighters after the World Trade Center Disaster*, by Cohen et al. [2019], and *Cardiovascular Disease in the World Trade Center Health Program General Responder Cohort*, by Sloan et al. [2021]. Because stroke is not considered an IHD, the Administrator directed that it be evaluated separately.³⁰

On January 6, 2025, the Administrator received a petition (Petition 056) requesting the addition of “Coronary Artery Disease” to the List. The petition's validity was established by reference to one of the peer-reviewed, published, epidemiologic studies described above, *Cardiovascular*

Disease in the World Trade Center Health Program General Responder Cohort, by Sloan et al. [2021].

On January 31, 2025, the Administrator received a petition (Petition 058) requesting the addition of “Cardiovascular disease[,] cardiomyopathy, atrial fibrillation” to the List. The petition's validity was established by reference to two of the peer-reviewed, published epidemiologic studies described above: *Long-Term Cardiovascular Disease Risk among Firefighters after the World Trade Center Disaster*, by Cohen et al. [2019], and *Cardiovascular Disease in the World Trade Center Health Program General Responder Cohort*, by Sloan et al. [2021]. Two additional peer-reviewed, published, epidemiologic studies of CVDs in the 9/11-exposed population also provided sufficient medical basis:

- *Respiratory and Cardiovascular Hospitalizations after the World Trade Center Disaster*, by Lin et al. [2010],³¹ an ecologic study that examined the relationship between hospital admissions for respiratory and CVDs among lower Manhattan residents after September 11, 2001. CVDs included chronic rheumatic heart disease, hypertension, acute and chronic coronary artery disease, cardiac dysrhythmia, and congestive heart failure. The study found a significant increase in the rate of CVD hospitalizations during the weeks of September 18, 2001, and October 9, 2001, compared to the same weeks during the preceding 10 years, although no such increases in the rate of CVD hospitalizations were observed in several other weeks in September and October 2001.

- *Self-Reported Cardiovascular Disease in Career Firefighters with and without World Trade Center Exposure*, by Mueller et al. [2024],³² a cross-sectional study of CVD prevalence in male FDNY firefighters. The study found a positive association between self-reported CVD, including coronary artery disease, myocardial infarction, and angina when comparing firefighters with September 11, 2001, exposures and firefighters without those exposures.

On September 3, 2025, the Administrator received a petition (Petition 067) requesting the addition of

²⁶ Cascio WE, Long TC [2018], *Ambient Air Quality and Cardiovascular Health: Translation of Environmental Research for Public Health and Clinical Care*, NC Med J 79(5):306–312.

²⁷ Jordan HT, Stein CR, Li J, Cone JE, Stayner L, Hadler JL, Brackbill RM, Farfel MR [2018], *Mortality among Rescue and Recovery Workers and Community Members Exposed to the September 11, 2001 World Trade Center Terrorist Attacks, 2003–2014*, Environ Res 163:270–279.

²⁸ EPA [2019], *Integrated Science Assessment (ISA) for Particulate Matter (Final Report, Dec 2019)*, EPA/600/R–19/188.

²⁹ Li J, Hall CB, Yung J, Kehm RD, Zeig-Owens R, Singh A, Cone JE, Brackbill RM, Farfel MR, Qiao B, Schymura MJ, Shapiro MZ, Dasaro CR, Todd AC, Prezant DJ, Boffetta P [2023], *A 15-Year Follow-Up Study of Mortality in a Pooled Cohort of World Trade Center Rescue and Recovery Workers*, Environ Res 219:115116.

³⁰ Stroke will be considered in a separate evaluation under a new ordinal number, Petition 051a.

³¹ Lin S, Gomez MI, Gensburg L, Liu W, Hwang S [2010], *Respiratory and Cardiovascular Hospitalizations after the World Trade Center Disaster*, Arch Environ Occup Health 65(1):12–20.

³² Mueller AK, Cohen H, Singh A, Webber MP, Hall CB, Prezant DJ, Zeig-Owens R [2024], *Self-Reported Cardiovascular Disease in Career Firefighters with and without World Trade Center Exposure*, JOEM 66(2):135–140.

“Ischemic cardiomyopathy” to the List. The petition’s validity was established by reference to one of the studies referenced above, *Respiratory and Cardiovascular Hospitalizations after*

the World Trade Center Disaster, by Lin et al. [2010].

Together, the eight petitions requested the addition of and provided medical basis for adding the following CVDs to

the List: myocardial infarction, coronary artery disease, cardiomyopathy, arrhythmias, congestive heart failure, and unstable angina.

REQUESTED ISCHEMIC HEART DISEASES FOR WHICH MEDICAL BASIS WAS PROVIDED

Petition	Requested health condition
024	Cardiovascular disease, including myocardial infarction.
042	Cardiovascular disease.
046	Cardiomyopathy.
047	Cardiovascular diseases, including myocardial infarction, unstable angina, obstructive coronary artery disease, ischemic cardiomyopathy, ischemic congestive heart failure, arrhythmias (due to any of the above).
051	Cardiovascular diseases, including coronary artery disease, myocardial infarction, congestive heart failure.
056	Coronary artery disease.
058	Cardiovascular disease, cardiomyopathy, atrial fibrillation.
067	Ischemic cardiomyopathy.

Although the terms “CABG” and “angioplasty” were requested in Petition 024, they are both treatments for health conditions and not conditions themselves. They were included in the literature search performed by the Science Team (described below) and were not considered further.

Upon review of Petitions 024, 042, 046, 047, 051, 056, 058, and 067, the Program determined that nearly all of the requested CVDs for which medical basis was provided—myocardial infarction, coronary artery disease, cardiomyopathy, arrhythmia, congestive heart failure, and unstable angina—fall

under the broader category of “ischemic heart disease” within the NIOSH Life Table Analysis System (LTAS)³³ category Minor Category 055. Minor Category 55 comprises ICD-10³⁴ codes I20–I22 and I24–I25:

CLASSIFICATION OF MINOR 55, ISCHEMIC HEART DISEASE

ICD 10 code	Description
I20	Angina pectoris.
I21	Acute myocardial infarction.
I22	Subsequent ST elevation (STEMI) and non-ST elevation (NSTEMI) myocardial infarction.
I24	Other acute ischemic heart diseases.
I25	Chronic ischemic heart disease (e.g., coronary atherosclerosis, ischemic cardiomyopathy).

Arrhythmia, congestive heart failure, and atrial fibrillation are not categorized as IHDs in ICD-10 codes I20–I22 and I24–I25 but are considered “other forms of heart disease” and found under codes I47–I49 and I50. Accordingly, neither arrhythmia, congestive heart failure, nor atrial fibrillation were comprehensively evaluated. The term “IHD” is used throughout this writing to refer to the requested health conditions.

D. Evaluation of Scientific Evidence: Findings and Conclusion

In response to Petitions 024, 042, 046, 047, 051, 056, 058, and 067 and

pursuant to the WTC Health Program’s *Policy and Procedures*, the Administrator of the WTC Health Program directed the Science Team to conduct a literature search to identify peer-reviewed, published, epidemiologic studies of IHD in 9/11-exposed populations. Identified studies were initially assessed for quality; those studies determined to be high-quality were then evaluated to determine if they provide evidence to support a likelihood of a causal association between 9/11 exposures and the health condition under consideration. The

Science Team provided the Administrator a paper describing its findings, *Evaluation of Scientific Evidence Supporting the Addition of Ischemic Heart Disease to the List of WTC-Related Health Conditions*. This paper, which builds on previous evaluations of IHD conditions conducted in response to Petitions 004 and 012, is available in the docket for this activity³⁵ and on the Program’s website.³⁶

³³ NIOSH LTAS is computer software commonly used to conduct comparisons of cause-specific incidence and mortality rates by age, sex, race, calendar time, and duration or level of exposure. LTAS support was discontinued in 2022, but its functionality was retained in software available on

another platform. See Bertke SJ, Kelly-Reif K [2022], *Introducing LTASR, a New R Package Based on the NIOSH Life Table Analysis System*, *Occup Environ Med* 79(11):792.

³⁴ ICD, International Classification of Diseases, 10th Revision, <https://www.cms.gov/medicare/coding/icd10>.

³⁵ <https://www.cdc.gov/niosh/docket/archive/docket094.html>.

³⁶ <https://www.cdc.gov/wtc/received.html>.

The literature search conducted by the Science Team identified 20 peer-reviewed, published, epidemiologic studies of IHD in 9/11-exposed populations. Of those, six studies were found not to demonstrate sufficient validity indicators to be considered high-quality and were not further evaluated.³⁷ The remaining 14 studies were determined to have sufficient validity indicators to be considered high-quality studies eligible for further evaluation in accordance with the Program's *Policy and Procedures*.³⁸ These 14 high-quality studies include the studies by Alper et al. [2017], Remch et al. [2018], Jordan et al. [2018], Cohen et al. [2019], Sloan et al. [2021], Li et al. [2023], and Mueller et al. [2024], discussed above, plus the 7 additional studies listed below:

- Brackbill RM, Thorpe LE, DiGrande L, Perrin M, Sapp JH, Wu D, Campolucci S, Walker DJ, Cone J, Pulliam P, Thalji L, Farfel M, Thomas P [2006], *Surveillance for World Trade Center Disaster Health Effects Among Survivors of Collapsed and Damaged Buildings*, MMWR Surveill Summ 55(2):1–18.
- Jordan HT, Miller-Archie SA, Cone JE, Morabia A, Stellman SD [2011b], *Heart Disease Among Adults Exposed to the September 11, 2001 World Trade Center Disaster: Results from the World Trade*

³⁷ Jordan HT, Brackbill RM, Cone JE, Debchoudhury I, Farfel MR, Greene CM, Hadler JL, Kennedy J, Li J, Liff J, Stayner L, Stellman SD [2011a], *Mortality Among Survivors of the Sept 11, 2001, World Trade Center Disaster: Results from the World Trade Center Health Registry Cohort*, Lancet 378(9794):879–887; Mani V, Wong SK, Sawit ST, Calcagno C, Maceda C, Ramachandran S, Fayad ZA, Moline J, McLaughlin MA [2013], *Relationship Between Particulate Matter Exposure and Atherogenic Profile in “Ground Zero” Workers as Shown by Dynamic Contrast Enhanced MR Imaging*, Int J Cardiovasc Imaging 29:827–833; Wanahita N, Lin See J, Giedd KN, Friedmann P, Somekh NN, Bergmann SR [2010], *No Evidence of Increased Prevalence of Premature Coronary Artery Disease in New York City Police Officers as Predicted by Coronary Artery Calcium Scoring*, JOEM 52(6):661–665; Stein CR, Wallenstein S, Shapiro M, Hashim D, Moline JM, Udasin I, Crane MA, Luft BJ, Lucchini RB, Holden WL [2016], *Mortality Among World Trade Center Rescue and Recovery Workers, 2002–2011*, AJIM 59(2):87–95; Singh A, Zeig-Owens R, Cannon M, Webber MP, Goldfarb DG, Daniels RD, Prezant DJ, Boffetta P, Hall CB [2023], *All-Cause and Cause-Specific Mortality in a Cohort of WTC-Exposed and Non-WTC-Exposed Firefighters*, JOEM 80(6):297–303; and Parvin A, Kehm RD, Qiao B, Cone JE, Farfel MR, Zeig-Owens R, Goldfarb DG, Shapiro MZ, Todd AD, Insaf T, Hall CB, Boffetta P, Li J [2026], *Effect of World Trade Center Health Program on Mortality Among 9/11 Responders*, Ann Epidemiol 115:8–14.

³⁸ See *supra* note 8 at 7–8.

Center Health Registry, Prev Med 53(6):370–376.

- Jordan HT, Stellman SD, Morabia A, Miller-Archie SA, Alper H, Laskaris Z, Brackbill RM, Cone JE [2013], *Cardiovascular Disease Hospitalizations in Relation to Exposure to the September 11, 2001 World Trade Center Disaster and Posttraumatic Stress Disorder*, JAMA 2(5):e000431.
- Brackbill RM, Cone JE, Farfel MR, Stellman SD [2014], *Chronic Physical Health Consequences of Being Injured during the Terrorist Attacks on World Trade Center on September 11, 2001*, Am J Epidemiol 179(9):1076–1085.
- Colbeth HL, Zeig-Owens R, Hall CB, Webber MP, Schwartz TM, Prezant DJ [2020], *Mortality among Fire Department of the City of New York Rescue and Recovery Workers Exposed to the World Trade Center Disaster, 2001–2017*, Int J Environ Res Public Health 17(17):6266.
- Alper HE, Brite J, Cone JE, Brackbill RM [2021], *Comparison of Prevalence and Exposure-Disease Associations Using Self-Report and Hospitalization Data Among Enrollees of the World Trade Center Health Registry*, BMC Med Res Methodol 21:162.
- Colbeth HL, Zeig-Owens R, Hall CB, Webber MP, Schwartz TM, Prezant DJ [2023], *Correction: Colbeth et al. Mortality Among Fire Department of the City of New York Rescue and Recovery Workers Exposed to the World Trade Center Disaster, 2001–2017*, Int. J. Environ. Res. Public Health 2020, 17, 6266, Int J Environ Res Public Health 20(16):6585.
- Krasnov H, Patel KA, Knobel P, Hsu H–HL, Teitelbaum SL, McLaughlin MA, Just AC, Sade MY [2025], *World Trade Center (WTC) Exposures and Cardiometabolic Risk Among WTC Health Program General Responders*, Am J Public Health 115(7):1120–1128.

The Science Team conducted an evaluation, separately and together, of the 14 high-quality studies to determine the likelihood of a causal association between 9/11 exposures and the petitioned health condition. The systematic literature search, the Science Team's evaluation and synthesis of the available literature, and the Science Team's conclusions regarding the association between 9/11 exposure and IHD are described in full in the Science Team's *Evaluation of Scientific Evidence Supporting the Addition of Ischemic Heart Disease to the List of WTC-Related Health Conditions*.

In accordance with the *Policy and Procedures*,³⁹ the WTC Health Program uses the following Bradford Hill criteria to evaluate studies of 9/11-exposed

populations: strength of association,⁴⁰ precision of the risk estimate,⁴¹ consistency of association,⁴² temporality,⁴³ biological gradient⁴⁴ and biological plausibility,⁴⁵ coherence,⁴⁶ and analogy.⁴⁷ The Science Team also considered the limitations of the evaluated evidence and whether the evidence is representative of the complete 9/11-exposed population of responder and survivors, including those exposed in the New York City disaster area as well as the Pentagon and Shanksville, Pennsylvania sites. The 14 high-quality studies are discussed in full in the Science Team's Evaluation; a summary of the evidence synthesis is found in Table 21, reproduced here:

⁴⁰ It is generally thought that strong associations are more likely to be causal than weak associations; however, a weak association does not rule out a causal relationship.

⁴¹ Precision of the risk estimate describes the random error (“chance”) inherent in estimating the strength of association (the effect size) between exposure and the health condition. It is often expressed as a confidence interval illustrating a range of plausible values of the effect estimate given sampling error. A narrow confidence interval indicates a more precise measure of the effect and a wider interval indicates greater uncertainty. While precision is not a Bradford Hill criterion, the Science Team takes it into consideration to evaluate the extent of random error in study estimates.

⁴² Consistent findings are demonstrated when they have been repeatedly reported by multiple studies. When assessing consistency, the Science Team also considers differences in study quality that could explain inconsistent study findings. If only a single study is available for evaluation, the Science Team will place more emphasis on evaluating the strength of the association and precision of the risk estimate.

⁴³ Temporality is the condition that the 9/11 exposure must precede the health condition of interest and is typically assessed when considering aspects of exposure in the study design.

⁴⁴ Studies establish an exposure-response relationship by demonstrating that increases in exposure (*i.e.*, exposures of greater intensity and/or longer duration) are associated with a greater incidence of disease. A thorough evaluation of exposure-response requires analysis of multiple levels of exposure such that the investigator can demonstrate that the risk increases with increasing levels of exposure.

⁴⁵ Study findings demonstrate a basis in scientific theory that supports the relationship between the exposure and the health effect and do not conflict with known facts about the biology of the health condition.

⁴⁶ Coherence implies that the interpretation of a causal association agrees with known disease etiology.

⁴⁷ Analogy is used to inform on biological plausibility and coherence by contrasting the evidence on the suspected causal association with that from an established association between similar (analogous) causes or effects.

³⁹ *Supra* note 8.

Aspect of association ("Bradford Hill criteria") [Hill 1965]	Evaluation findings
Strength of Association (and estimate of precision).	There were 14 high-quality studies identified for this evaluation [Brackbill et al. 2006; Jordan et al. 2011b; Jordan et al. 2013; Brackbill et al. 2014; Alper et al. 2017; Jordan et al. 2018; Remch et al. 2018; Cohen et al. 2019; Colbeth et al. 2020; Alper et al. 2021; Sloan et al. 2021; Li et al. 2023; Mueller et al. 2024; Krasnov et al. 2025]. Among these 14 studies, eight reported at least one statistically significant positive association between 9/11 exposures and IHD. Among positive associations, effect measures were modest (RR <2.0) and the set of potential modifying factors (e.g., mediators, moderators, and confounders) was exceedingly large. Small effects and multifactorial causes give rise to estimate errors; therefore, the internal validity of existing risk estimates is uncertain. For example, more information is needed to understand the joint effects of 9/11 exposures and PTSD (or other comorbidities) on cardiovascular risk in the 9/11-exposed population to parse out any causal association between WTC dust exposure and IHD.
Consistency	Seven studies reported at least one significantly positive association between a measure of WTC dust exposure and an outcome including IHD [Jordan et al. 2011b; Jordan et al. 2013; Brackbill et al. 2014; Cohen et al. 2019; Sloan et al. 2021; Li et al. 2023; Mueller et al. 2024] compared with seven studies that did not [Brackbill et al. 2006; Alper et al. 2017; Jordan et al. 2018; Remch et al. 2018; Colbeth et al. 2020; Alper et al. 2021; Krasnov et al. 2025]. Only three longitudinal studies examined specific IHD outcomes [Jordan et al. 2013; Alper et al. 2017; Alper et al. 2021], and none of the three reported significant excess IHD risk from WTC dust exposure. Results were mixed in two cross-sectional studies that examined specific IHD outcomes [Brackbill et al. 2006; Mueller et al. 2024]. Fewer studies examined the association between the 9/11 agent, "sustained injury on 9/11" and CVD outcomes. Findings were mixed within and between studies. Four studies reported at least one significant positive association [Jordan et al. 2011b; Brackbill et al. 2014; Alper et al. 2017; Alper et al. 2021] with injury while two studies found no evidence of an association [Jordan et al. 2013; Krasnov et al. 2025] in multiple analyses. Negative findings from the two studies using hospital discharge records [Jordan et al. 2013; Alper et al. 2021] were inconsistent with the positive findings in the previous studies using self-reported outcomes [Jordan et al. 2011b; Alper et al. 2021]. Mixed findings might result from differences in the definitions of health conditions, exposure measures, populations at risk, case ascertainment, as well as observing modest effects, among other possible explanations. There was evidence of potential bias from residual confounding (e.g., comparison of Model 1 and Model 2 in Mueller et al. 2024). Most studies defined cardiovascular outcomes as broad categories of self-reported, loosely related circulatory system conditions. Errors in ascertainment from self-report appeared slightly attenuated and non-differential in Alper et al. [2021], but substantial in Mueller et al. [2024]. Patterns of inconsistency over time suggested that variability among studies decreased with increasing time since exposure. This suggests that improvements in data quality from extended follow-up will benefit risk assessment moving forward. Further benefits may be achieved by improving definitions of health conditions used in future studies.
Temporality	Longitudinal studies have generally taken steps to exclude prevalent CVD cases. In contrast, steps taken to alleviate general limitations of cross-sectional designs were poorly described; therefore, these cross-sectional studies merit cautious interpretation [Brackbill et al. 2006; Brackbill et al. 2014; Mueller et al. 2024]. In all studies, subclinical health conditions may have manifested prior to 9/11 in some individuals, or the events of 9/11 may have triggered CVD in persons with relevant pre-9/11 conditions.
Biological Gradient	Exposure-response findings were inconsistent. However, findings from multiple studies that examined exposure-response reported evidence suggestive of modestly increasing CVD or IHD risk across increasing categories of 9/11 exposure.
Plausibility, Coherence, and Analogy	An association between WTC dust exposure and IHD is coherent with the available evidence. There is large uncertainty in an analogy comparing a proposed causal association between WTC dust exposure and IHD and the established causal relationship between PM _{2.5} and IHD. The latter is supported by a large body of evidence linking both short- and long-term exposures to ambient air pollution to increased CVD risk. Chronic exposure to PM _{2.5} in air pollution and acute exposure to WTC dusts are largely dissimilar. There is sparse evidence available on the relevant etiologic period for late cardiovascular effects from PM _{2.5} exposure; therefore, the biological plausibility of these effects remains largely uncertain. There is considerably less evidence supporting a causal association between sustaining injury on September 11, 2001, and cardiovascular disease. It is posited that the trauma of sustaining injuries during the 9/11 attacks initiates stress-related psychological and biological mechanisms that might lead to increased cardiovascular disease risk. It has also been suggested that injury could alter physical function, which might adversely affect cardiovascular health. However, biological mechanisms of injury-related IHD in the absence of physical disability and chronic stress are not currently known. Information refuting the biological plausibility of 9/11 injury or WTC dust as causal agents was not found.
Representativeness	There was representation of all groups of 9/11-exposed populations.

Abbreviations: CVD, cardiovascular disease; IHD, ischemic heart disease; PTSD, posttraumatic stress disorder; RR relative risk.

Upon review of the evidence available in peer-reviewed, published, epidemiologic studies regarding IHD among 9/11-exposed populations, the Science Team assessed the degree to which the evidence supports a causal association between 9/11 exposures and IHD and determined that, at this time, there is a limited likelihood of causal association ⁴⁸ between 9/11 exposures and IHD (Category III).

E. Administrator's Final Decision on Whether To Propose the Addition of Ischemic Heart Disease to the List

Pursuant to the PHS Act, sec. 3312(a)(6)(B)(iv) and 42 CFR

88.16(a)(2)(iv), and in accordance with Sec. VIII.B. of the *Policy and Procedures*, the Administrator has determined that insufficient evidence is available to take further action at this time, including proposing the addition of IHD (ICD-10 codes I20-I22, and I24-I25) to the List (pursuant to the PHS Act, sec. 3312(a)(6)(B)(ii) and 42 CFR 88.16(a)(2)(ii)) or publishing a determination not to publish a proposed rule in the **Federal Register** (pursuant to the PHS Act, sec. 3312(a)(6)(B)(iii) and 42 CFR 88.16(a)(2)(iii)). The Administrator has also determined that requesting a recommendation from the STAC (pursuant to the PHS Act, sec. 3312(a)(6)(B)(i) and 42 CFR 88.16(a)(2)(i)) is unwarranted.

For the reasons discussed above, the Petitions 024, 042, 046, 047, 051, 056, 058, and 067 collective request to add ischemic heart disease (ICD-10 codes I20-I22, and I24-I25) to the List of WTC-Related Health Conditions is denied.

F. Approval To Submit Document to the Office of the Federal Register

The Secretary, HHS, or his designee, the Director, Centers for Disease Control and Prevention (CDC) and Administrator, Agency for Toxic Substances and Disease Registry (ATSDR), authorized the undersigned, the Administrator of the WTC Health Program, to sign and submit the document to the Office of the Federal Register for publication as an official

⁴⁸ See *Policy and Procedures* supra note 8 at Sec. V.C. Category III—Evidence Supports Limited Likelihood of Causal Association.

document of the WTC Health Program. Jay Bhattacharya, M.D., Ph.D., Senior Official Carrying out the Delegable Duties of the CDC Director, approved this document for publication on June 13, 2026.

John J. Howard,

Administrator, World Trade Center Health Program and Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services.

[FR Doc. 2026–13176 Filed 6–29–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Matching Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) is providing notice of the re-establishment of a matching program between CMS and the Peace Corps for “Verification of Eligibility for Minimum Essential Coverage Under the Patient Protection and Affordable Care Act through a Peace Corps Health Benefit Plan.”

DATES: The deadline for comments on this notice is July 30, 2026. The re-established matching program will commence not sooner than 30 days after publication of this notice, provided no comments are received that warrant a change to this notice. The matching program will be conducted for an initial term of 18 months (from approximately July 1, 2026 to December 31, 2027) and within 3 months of expiration may be renewed for up to one additional year if the parties make no change to the matching program and certify that the program has been conducted in compliance with the matching agreement.

ADDRESSES: Interested parties may submit comments on this notice to the CMS Privacy Act Officer by mail at: Division of Security, Privacy Policy & Governance, Information Security & Privacy Group, Office of Information Technology, Centers for Medicare & Medicaid Services, Location: N1–14–56, 7500 Security Blvd., Baltimore, MD

21244–1850 or by email at Barbara.Demopulos@cms.hhs.gov.

FOR FURTHER INFORMATION CONTACT: If you have questions about the matching program, you may contact Terrence Kane, Director, Division of Automated Verifications and SEP Policy, Marketplace Eligibility and Enrollment Group, Center for Consumer Information and Insurance Oversight, Centers for Medicare & Medicaid Services, at (301) 492–4449, by email at Terrence.kane@cms.hhs.gov, or by mail at 7501 Wisconsin Avenue, Bethesda, MD 20814.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, as amended (5 U.S.C. 552a) provides certain protections for individuals applying for and receiving federal benefits. The law governs the use of computer matching by federal agencies when records in a system of records (meaning, federal agency records about individuals retrieved by name or other personal identifier) are matched with records of other federal or non-federal agencies. The Privacy Act requires agencies involved in a matching program to:

1. Enter into a written agreement, which must be prepared in accordance with the Privacy Act, approved by the Data Integrity Board of each source and recipient federal agency, provided to Congress and the Office of Management and Budget (OMB), and made available to the public, as required by 5 U.S.C. 552a(o), (u)(3)(A), and (u)(4).
2. Notify the individuals whose information will be used in the matching program that the information they provide is subject to verification through matching, as required by 5 U.S.C. 552a(o)(1)(D).
3. Verify match findings before suspending, terminating, reducing, or making a final denial of an individual's benefits or payments or taking other adverse action against the individual, as required by 5 U.S.C. 552a(p).
4. Report the matching program to Congress and the OMB, in advance and annually, as required by 5 U.S.C. 552a(o) (2)(A)(i), (r), and (u)(3)(D).
5. Publish advance notice of the matching program in the **Federal Register** as required by 5 U.S.C. 552a(e)(12).

This matching program meets these requirements.

Barbara Demopulos,

Privacy Act Officer, Division of Security, Privacy Policy and Governance, Office of Information Technology, Centers for Medicare & Medicaid Services.

Participating Agencies: The Department of Health and Human Services (HHS), Centers for Medicare &

Medicaid Services (CMS) is the recipient agency, and the Peace Corps is the source agency.

Authority for Conducting the Matching Program: The principal authority for the matching program is 42 U.S.C. 18001, *et seq.*

Purpose(S): The purpose of the matching program is to assist CMS in determining individuals' eligibility for financial assistance in paying for private health insurance coverage. In this matching program, the Peace Corps provides CMS with daily files, identifying all Peace Corps volunteers and the dates when each volunteer was eligible for coverage under a Peace Corps health benefit plan, which CMS makes available to state administering entities (AEs) through a data services hub, under a separate matching agreement. CMS and AEs use the Peace Corps data to verify whether an individual who is applying for or is enrolled in private health insurance coverage under a qualified health plan through a federally-facilitated or state-based health insurance exchange is eligible for coverage under a Peace Corps health benefit plan, for the purpose of determining the individual's eligibility for financial assistance (including an advance tax credit and cost sharing reduction, which are types of insurance affordability programs) in paying for private health insurance coverage. Peace Corps health benefit plans provide minimum essential coverage, and eligibility for such plans precludes eligibility for financial assistance in paying for private coverage. The data provided by the Peace Corps under this matching program will be used by CMS and AEs to authenticate identity, determine eligibility for financial assistance, and determine the amount of any financial assistance.

Categories of Individuals: The categories of individuals whose information is involved in the matching program are: (1) active and recently separated Peace Corps volunteers, identified in data CMS receives from the Peace Corps, and (2) consumers who apply for or are enrolled in private insurance coverage under a qualified health plan through a federally-facilitated or state-based health insurance exchange (and other relevant individuals, such as applicants' and enrollees' household members), whose records are matched against the data CMS receives from the Peace Corps.

Categories of Records: The categories of records which will be provided by the Peace Corps to CMS in this matching program are identity records and minimum essential coverage period

records, consisting of these data elements: last name, middle initial, first name, and date of birth. CMS will not send any data about individual applicants/enrollees to the Peace Corps in order to receive this data about Peace Corps volunteers.

System(s) of Records

A. System of Records Maintained by CMS

The applicable CMS system of records is CMS Health Insurance Exchanges System (HIX), CMS System No. 09–70–0560, last published in full at 78 FR 63211 (Oct. 23, 2013), as amended at 83 FR 6591 (Feb. 14, 2018).

B. System of Records Maintained by the Peace Corps

The applicable Peace Corps system of records is PC–17 Peace Corps, Volunteer Applicant and Service Records System, last published in full at 50 FR 1950 (Jan. 14, 1985) and partially amended at 65 FR 63641 (Oct. 24, 2000), 72 FR 44878 (Aug. 9, 2007), 75 FR 53000 (Aug. 30, 2010), and 79 FR 41599 (July 16, 2014).

[FR Doc. 2026–13099 Filed 6–29–26; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Office of Management and Budget #: 0970–0422]

Submission for Office of Management and Budget Review; Adoption and Foster Care Analysis and Reporting System (AFCARS)

AGENCY: Children's Bureau, Administration for Children and

Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Administration for Children and Families (ACF) is requesting a revision of the Adoption and Foster Care Analysis and Reporting System (AFCARS) (Office of Management and Budget #: 0970–0422, expiration June 30, 2026). Sixty-two data elements have been added to AFCARS, per a December 2024 final rule. This has increased the burden for reporting for state child welfare agencies only.

DATES: Comments due July 30, 2026.

ADDRESSES: The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202606-0970-022. You can also obtain copies of the proposed collection of information by emailing infocollection@acf.hhs.gov. Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: State and tribal title IV–E agencies are required to report AFCARS case-level information on all children in foster care and children who have been adopted or placed in a guardianship with title IV–E agency involvement. The data includes information about children who enter foster care, their entries and exits, placement details, and foster/adoptive parent information. The data collected will inform policy decisions, program management, and responses to Congressional and Departmental inquiries. Specifically, the data are used for short/long-term budget projections, trend analysis, child and family service

reviews, and to target areas for improved technical assistance.

AFCARS regulation (45 CFR part 1355.40) recently underwent a revision with a final rule in December 2024 (89 FR 96569), which added 62 data elements to require state title IV–E child welfare agency reporting of more detailed information related to the Indian Child Welfare Act's procedural protections. This increased the reporting burden for states only. This request is for public comment on the burden calculations. It does not seek comment on the data elements that have been through the rulemaking process.

Respondents: Title IV–E State and Tribal Child Welfare Agencies

Annual Burden Estimates

In the currently approved information collection, burden was displayed in sum for state and tribal recordkeeping activities. To more clearly document estimated burden per respondent type after the recent addition of elements for states, this request breaks the recordkeeping burden out by respondent. The estimated time per response for tribes remains the same while the estimated time per response for states increased from 8,538 to 9,036 hours per response.

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Annual burden hours
State Recordkeeping	53	2	9,035.97	957,813
Tribe Recordkeeping	17	2	8,538	290,292
Reporting	70	2	17	2,380
Estimated Total Annual Burden Hours				1,250,485

Authority: 42 U.S.C. 679; 45 CFR part 1355.40

Mary C. Jones,
ACF/OPRE Certifying Officer.

[FR Doc. 2026–13134 Filed 6–29–26; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Office for Civil Rights, Office of the Secretary, U.S. Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice sets forth the Statement of Organization of the Office for Civil Rights of the U.S. Department of Health and Human Services.

DATES: This reorganization was approved by the Secretary of Health and Human Services on May 14, 2026, and took effect on June 28, 2026.

SUPPLEMENTARY INFORMATION: To ensure clear, effective, and unified enforcement of Federal civil rights laws as they apply to health and human services, including the robust protection of conscience, religious freedom, and health information privacy and security, this action restores the Office for Civil Rights to a program-based structure that integrates rulemaking and priority enforcement under subject-matter divisions while centralizing intake, investigations, and case processing through a unified Enforcement Division that supports field office execution. Part A, Office of the Secretary, Statement of Organization, Functions, and Delegations of Authority of the U.S. Department of Health and Human Services (HHS), as last amended at 88 FR 12954 (Mar. 1, 2023), is amended at Chapter AT, Office for Civil Rights (OCR), to reflect the restructuring of OCR as follows:

I. Under Chapter AT, Office for Civil Rights, in the outline section at the beginning of the Chapter that reads:

“AT.00 Mission

AT.10 Organization
AT.20 Functions”

II. Under Chapter AT, Office for Civil Rights, delete “Section AT.00 Mission” in its entirety and replace with the following:

“AT.00 Mission

The Office for Civil Rights is the Department’s law enforcement agency charged with enforcing laws protecting civil rights, conscience and religious freedom, and health information privacy and security. OCR ensures that individuals and organizations participating in, and individuals receiving services from, HHS-funded programs are not subject to unlawful discrimination, and are free from coercion, and can exercise their

conscience and religious freedom rights. OCR also ensures that Americans can trust the privacy, security, integrity, and availability of their identifiable health information. By rooting out invidious discrimination and removing unlawful barriers to HHS-funded services, OCR carries out the HHS mission of improving the health and well-being of all Americans and providing essential human services. By ensuring individuals and institutions can exercise their conscience and religious freedom rights, OCR furthers justice and tolerance in a pluralistic society and ensures that individuals are not deterred from entering the health and human services professions and are not coerced into leaving it, thereby encouraging access to services. By promoting the right to access health information and protecting the privacy and security of this information, OCR enables and empowers Americans to take control of their health and to engage in shared decision-making and helps ensure the integrity of the health care system and thereby promotes better health outcomes for the Nation.

OCR accomplishes this by:

- Enforcing laws, investigating complaints, conducting compliance reviews, promulgating regulations, developing policy, providing technical assistance, and engaging in public education and outreach to ensure understanding of and compliance with all the laws over which OCR has authority;

- Ensuring that recipients of HHS Federal financial assistance comply with Federal civil rights laws that prohibit discrimination on the bases of race, color, national origin, disability, age, sex, and religion;

- Ensuring that Federal agencies, State and local governments, health care providers, health plans, and other covered entities comply with Federal laws protecting the free exercise of religion and conscience and the right to be free from coercion in HHS-conducted or funded programs; and

- Ensuring that health care providers, health plans, health care clearinghouses, and their business associates adhere to Federal privacy, security, and breach notification regulations under the Health Insurance Portability and Accountability Act (HIPAA) or 42 CFR part 2 (Part 2), as applicable, through the investigation of complaints, self-reports of breaches, compliance reviews, and audits.”

III. Under Chapter AT, Office for Civil Rights, delete “Section AT.10 Organization” in its entirety and replace with:

“AT.10 Organization

A. Immediate Office of the Director (AT)
B. Operations and Resources Division (ATA)
C. Civil Rights Division (ATB)
D. Health Information Privacy, Data, and Cybersecurity Division (ATC)
E. Enforcement Division (ATD)
F. Conscience and Religious Freedom Division (ATE)”

IV. Under Chapter AT, Office for Civil Rights, Section “AT.20 Functions,” add “Immediate” before “Office of the Director (AT),” delete “protection” and replace with “and religious freedom,” insert “and Part 2” after “HIPAA,” delete “the exercise of conscience” and replace with “conscience and religious freedom,” and add a new sentence that reads “The Director provides centralized coordination of communications and external engagement, in collaboration with the Assistant Secretary for Public Affairs and the Director of the Office of Intergovernmental and External Affairs, respectively” after the sentence that ends “agencies responsible for similar or related matters.”

V. Under Chapter AT, Office for Civil Rights, Section “AT.20 Functions” at subsection “C. Policy Division (ATB),” delete in its entirety and replace with the following:

AT.20 Functions

* * * * *

“C. Civil Rights Division (ATB). The Civil Rights Division (CRD) is headed by the Deputy Director for Civil Rights, who reports to the Director. CRD oversees OCR’s national civil rights program, including Federal civil rights statutes and regulations that prohibit discrimination on the basis of race, color, national origin, sex, disability, and age. CRD provides national leadership in OCR’s civil rights enforcement and compliance activities, including advising OCR staff nationwide on case development and quality and assisting in developing negotiation, enforcement, and litigation strategies. CRD promulgates regulations, policies, and guidance and provides technical assistance to assist covered entities with compliance, and provides subject-matter expertise for public education and outreach activities to stakeholders nationwide. CRD leads priority enforcement initiatives, including high-impact investigations and systemic compliance reviews, and provides subject-matter guidance on elevated, high-impact, and priority matters referred by the Enforcement Division in accordance with defined criteria. CRD also identifies and designs civil rights-specific training programs for OCR staff; reviews challenges to

OCR's civil rights findings; coordinates OCR's government-wide responsibilities for implementation of Age Discrimination Act requirements; and liaises with, and provides civil rights technical assistance and advisory services to, HHS Operating Divisions; national advocacy, beneficiary, and provider groups; and other Federal departments and agencies, including through intra- and interagency workgroups."

VI. Under Chapter AT, Office for Civil Rights, Section "AT.20 Functions," at subsection "D. Health Information Privacy, Data, and Cybersecurity Division (ATC)," add "and Confidentiality of Substance Use Disorder Patient Records at 42 CFR part 2," after "Security and Breach Notification Rules."

VII. Under Chapter AT, Office for Civil Rights, Section "AT.20 Functions" at subsection "E. Enforcement Division (ATD)," delete in its entirety and replace with the following:

AT.20 Functions

* * * * *

"E. Enforcement Division (ATD). The Enforcement Division is headed by the Deputy Director for Enforcement, who reports to the Director. The Enforcement Division is responsible for overseeing OCR's field office operations and case-management functions to support the comprehensive implementation of all OCR authorities. The Enforcement Division serves as the central execution arm for intake, investigation, and case processing across OCR. The Division receives and triages complaints, conducts investigations and compliance reviews, and provides technical assistance and outreach across civil rights, conscience and religious freedom, and health information privacy programs. The Enforcement Division oversees centralized intake and case-management operations, including the Centralized Case Management Operation (CCMO), ensuring that complaints are received, evaluated, prioritized, and assigned in accordance with established criteria and program priorities. The Enforcement Division consults with the Civil Rights Division, the Health Information Privacy, Data, and Cybersecurity Division, and the Conscience and Religious Freedom Division, as appropriate, and elevates high-impact and priority matters in accordance with defined criteria to ensure consistency with subject-matter expertise and Departmental decision-making. Field office operations are carried out under the executive direction of the Deputy Director for Enforcement, who is responsible for the

execution of investigations, compliance reviews, outreach, and related enforcement activities across OCR's program areas. The Enforcement Division also directs case-management data analytics and operational performance measurement and coordinates leadership and professional development activities to support consistent, timely, and legally sufficient case processing across OCR."

VIII. Under Chapter AT, Office for Civil Rights, Section "AT.20 Functions" at subsection "F. Strategic Planning Division (ATE)," delete in its entirety and replace with the following:

AT.20 Functions

* * * * *

"F. Conscience and Religious Freedom Division (ATE). The Conscience and Religious Freedom Division (CRFD) is headed by the Deputy Director for Conscience and Religious Freedom, who reports to the Director. CRFD is responsible for OCR's national conscience and religious freedom program, including enforcement of, and compliance with, laws protecting conscience and the free exercise of religion and prohibiting coercion and religious discrimination. These laws include, but are not limited to, the Church Amendments (42 U.S.C. 300a-7); the Coats-Snowe Amendment (42 U.S.C. 238n); the Weldon Amendment (e.g., Pub. L. 119-75, div. B, tit. V, sec. 507(d) (2026)); Sections 1303(b)(4) and 1553 of the Affordable Care Act (42 U.S.C. 18023(b)(4) and 18113, respectively); the employment religious nondiscrimination provisions in the Public Telecommunications Financing Act of 1978 (47 U.S.C. 398(b)); and the religious nondiscrimination provisions in various block grant authorizing statutes. CRFD provides national leadership in OCR's enforcement and compliance activities within its subject-matter areas, including advising OCR staff nationwide on case development and quality and assisting in developing negotiation, enforcement, and litigation strategies. CRFD promulgates regulations, policies, and guidance, provides technical assistance to assist covered entities with compliance, and provides subject-matter expertise for public education and outreach activities to stakeholders nationwide. CRFD leads priority enforcement initiatives, including high-impact investigations and compliance reviews, and provides subject-matter guidance on elevated, high-impact, and priority matters referred by the Enforcement Division in accordance with defined criteria. CRFD also identifies and designs conscience

and religious freedom-specific training programs for Departmental staff and provides technical assistance and advisory services to HHS Operating and Staff Divisions; national advocacy, beneficiary, and provider groups; religious organizations; faith-based organizations; for-profit and nonprofit entities; State and local governments; and other Federal departments and agencies, including through intra- and interagency workgroups."

IX. Pending further delegations, directives, or orders by the Secretary or the OCR Director, all delegations and redelegations of authority to positions of the affected organizations in effect prior to the date of this notice shall continue in effect in them or their successors, provided they are consistent with this reorganization.

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

[FR Doc. 2026-13142 Filed 6-29-26; 8:45 am]

BILLING CODE 4153-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Advisory Committee on Research on Women's Health.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person listed below in advance of the meeting.

Name of Committee: Advisory Committee on Research on Women's Health.

Date: October 20, 2026.

Time: 9:30 a.m. to 4:00 p.m.

Agenda: ORWH Director's Report, IC Director's Report, and a scientific panel on innovations in chronic disease.

Address: National Institutes of Health, 6707 Democracy Blvd., Room 400, Bethesda, MD 20871.

Meeting Format: Virtual Meeting.

Contact Person: Lucia Hindorff, BA, MPH, ACRWH Executive Secretary, Office of Research on Women's Health, National Institutes of Health, 6707 Democracy Blvd., Room 400, Bethesda, MD 20871, (240) 271-1509, lucia.hindorff@nih.gov.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and

representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: www4.od.nih.gov/orwh/, where an agenda and any additional information for the meeting will be posted when available. (Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: June 26, 2026.

Margaret N. Vardanian,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-13175 Filed 6-29-26; 8:45 am]

BILLING CODE 4167-05-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel; Biomedical Data Repositories and Knowledgebases.

Date: July 17, 2026.

Time: 10:00 a.m. to 11:00 a.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: Archana Jha, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-435-5945, archana.jha@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 25, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-13117 Filed 6-29-26; 8:45 am]

BILLING CODE 4167-05-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 30-Day Comment Request; NIH Information Collection Forms to Support the Genetic Testing Registry (OD)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institutes of Health Office of the Director (OD) 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 by July 30, 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: Dr. Ellen Wann, Acting Director, Division of Scientific Data Sharing Policy, Office of Science Policy, Office of the Director, NIH, 6705 Rockledge Dr., Suite 631, Bethesda, MD 20892, non-toll-free number (301) 496-9838; SciencePolicy@mail.nih.gov. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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 from those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: NIH Information Collection Forms to Support the Genetic Testing Registry—0925-0651—Expiration Date January 31, 2025—REINSTATEMENT WITHOUT CHANGE—Office of the Director (OD), National Institutes of Health (NIH).

Need and Use of Information Collection: Clinical laboratory tests are available for more than 18,000 genetic conditions. The Genetic Testing Registry (GTR) provides a centralized, online location for test developers, manufacturers, and researchers to voluntarily submit detailed information about the availability and scientific basis of their genetic tests. The GTR is of value to clinicians by providing information about the accuracy, validity, and usefulness of genetic tests. The GTR also highlights evidence gaps where additional research is needed. The GTR also has tests for microbes like for SARS-CoV-2 to diagnose COVID-19.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 5,217 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Type of form	Estimated annual number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Laboratory Personnel Using Bulk Submission (new tests).	Minimal Fields	16	67	18/60	322
	Optional Fields	16	67	17/60	304
Laboratory Personnel Not Using Bulk Submission (new tests).	Minimal Fields	51	67	30/60	1,709
	Optional Fields	47	67	29/60	1,522
Laboratory Personnel (updated tests).	Annual Review	340	24	10/60	1,360
Total .....	.....	470	16, 870	.....	5,217

Dated: June 25, 2026.

Matthew J. Memoli,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2026-13204 Filed 6-29-26; 8:45 am]

BILLING CODE 4167-05-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer at samhsapra@samhsa.hhs.gov.

Project: SAMHSA Certified Community Behavioral Health Clinic—Expansion (CCBHC-E) Grant Program Evaluation (OMB No. 0930-XXXX)—NEW COLLECTION

In FY 2022, SAMHSA awarded two new cohorts of its CCBHC-Expansion program, one for clinics interested in becoming CCBHCs that need planning and support to come into compliance with CCBHC Certification Criteria, and another for established CCBHCs seeking to expand, improve, and advance their services. The purpose of the CCBHC-E grants is to address problems of access, coordination, and quality of behavioral health care by establishing a standard definition and criteria for organizations certified as CCBHCs to ensure that all service recipients have access to a common set of comprehensive, coordinated services, with the ultimate goal of decreasing gaps in care and improving outcomes across communities.

SAMHSA is requesting clearance for one data collection activity and forms related to the implementation and impact studies to be conducted as part of an evaluation of these cohorts. Data collected in this evaluation will help SAMHSA assess the degree to which activities at the clinic level and systems

level affect the development, implementation, and sustainment of CCBHCs consistent with the certification criteria and the impacts of model adoption on client outcomes.

1. SAMHSA will ask grantees to upload de-identified client-level EHR data. This data will include client demographics and interview information, the Patient Health Questionnaire (PHQ-9), the Columbia-Suicide Severity Rating Scale (C-SSRS), the Generalized Anxiety Disorder 7-item (GAD-7), the Alcohol Use Disorders Identification Test (AUDIT), and the Drug Abuse Screening Test (DAST-10), which the Evaluation Team has identified as tools grantees commonly use to collect client data. Grantees will upload these data during Quarter 4, 2025 and during Quarter 3 2026; all client data will be uploaded during periods to reduce burden required to determine duplicates. These data will provide SAMHSA with further data about client outcomes. If these data are not conducted, SAMHSA will not have adequate information to evaluate the extent to which clients improve over time on key outcomes related to CCBHC services.

The estimated response burden is as follows:

Type of respondent	No. of respondents	No. responses per respondent	Average burden per response (in hours)	Total burden hours	Average hourly wage	Total hour cost burden ^a
EHR data collection	298	2	8	4,768	\$59.07	\$281,645.76
Total	298	2	8	4,768	59.07	281,645.76

^a Total respondent cost is calculated as number of respondents × number of responses per respondent × average burden per response in hours × average hourly wage.

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.

Alicia Broadus,

Public Health Advisor.

[FR Doc. 2026-13100 Filed 6-29-26; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HOMELAND SECURITY**Transportation Security Administration****Crewmember Access Point**

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice.

SUMMARY: This notice sets the fee for aircraft operators that choose to participate in the Crewmember Access Point (CMAP™) program at \$19.00 per employee, per year. The CMAP program, formerly known as the Known Crew Member (KCM™) program, provides expedited screening access to sterile areas at certain U.S. airports for eligible crewmembers of TSA-regulated aircraft operators. TSA will provide instructions for joining the program and submitting fees to interested aircraft operators.

DATES: The fee announced in this notice becomes effective on January 1, 2027.

FOR FURTHER INFORMATION CONTACT:

Jamie A. Simon, Program Implementation Branch, Trusted Traveler and Credentialing, TSA–10, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598; telephone (202) 306–0344; email at CMAPOps@tsa.dhs.gov.

SUPPLEMENTARY INFORMATION:**I. Description of the Program**

In 2011, TSA worked with aircraft operators and industry associations to implement the KCM program to satisfy the statutory requirement to provide authorized crewmembers of eligible aircraft operators expedited access to sterile areas.¹ Currently, the Airlines for America (A4A)² manages the KCM program through its own information technology hardware and software, data collection methods, and identity verification.³

¹ See Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53, title XVI, sec. 1614, 121 Stat. 266, 486 (2007) (9/11 Act) (stating that TSA must “institute a sterile area access system or method that will enhance security by properly identifying authorized airline flight deck and cabin crew members at screening checkpoints and granting them expedited access through screening checkpoints”).

² A4A is an association of aircraft operators. See *Who We Are*, Airlines for America®, <https://www.airlines.org/who-we-are/> (last visited Apr. 16, 2026). Its current members are Alaska Airlines, American Airlines, Atlas Air, Delta Air Lines, FedEx, JetBlue, Southwest Airlines, United Airlines, and UPS. *Id.*

³ See <https://www.knowncrewmember.org/about-us/> for general program information.

Eligible aircraft operators⁴ subscribe to the KCM program through A4A. To be authorized to use KCM, the aircraft operators must enroll their eligible employees, and such individuals must be an on-duty crewmember, a crewmember on a repositioning flight, or an off-duty crewmember traveling domestically. The term “crewmember” includes Captains, Pilots-in-Command, First Officers or Co-Pilots, Flight Attendants, Flight Engineers, Flight Navigators and Full All-Cargo Load Masters.

Crewmembers present their aircraft operator-issued identification and acceptable forms of identification at specially designated KCM access locations that are staffed by TSA. TSA personnel scan the crewmember’s assigned KCM barcode to retrieve information from the A4A database of eligible crewmembers. If there is a match between the crewmember’s identification and information retrieved from A4A, the crewmember receives expedited access to sterile areas at certain U.S. airports.

In agreement with and on the initiative of, A4A, TSA will assume responsibility for the administration of KCM functions by the end of calendar year 2026. At that time, TSA is renaming the program as CMAP. TSA will use crewmember information that it receives from aircraft operators as part of the Master Crew List (MCL) and Master Personnel List (MPL) programs.⁵ The MCL is composed of crewmembers who are authorized to fly to, from, or over the U.S. and its territories following TSA vetting and are determined do not pose a security threat. Both passenger and all-cargo operators regulated under 49 CFR part 1544 that have international flights are required to submit MCLs to TSA. The MPL is a list TSA created for use by certain aircraft operators that includes crewmembers who fly only within the U.S. Both the MCL and MPL include key biographic information, such as name, sex, and date and place of birth, that TSA leverages for CMAP.

As part of their MPL or MCL submissions, aircraft operators participating in CMAP must indicate the crewmembers who have consented to participate in the program. TSA will use this information to build a list of crewmembers who are enrolled by an eligible aircraft operator and who have

consented to participate in the CMAP program. Although not a component of the CMAP program, crewmembers are separately required under provisions of 49 CFR 1542.209, 1544.229, 1544.230, and associated Security Directives (SDs) to successfully complete a security threat assessment (STA) that includes criminal history, immigration, and terrorism checks. As a result, individuals who are identified by their aircraft operator via special crew codes on the MCL or MPL are pre-vetted and determined to be eligible to receive expedited screening.

At certain U.S. airports, TSA will establish and designate CMAP access points. TSA will take a digital photograph of each crewmember who arrives at one of the designated locations. TSA’s system will compare this photograph to the individual’s photograph in Federal databases. If there is a biometric match, the crewmember will be eligible for expedited access to the sterile area. If there is not a match (or if the crewmember has been randomly selected for unpredictable screening procedures), the crewmember will be directed to a TSA passenger checkpoint for screening.

Moving operation of the program from A4A to TSA will improve cybersecurity of the data and systems that hold crewmember information, strengthen identity verification, and enable TSA to better leverage crewmember information as part of its aviation security oversight responsibilities. Crewmembers traveling on official business or domestically for personal reasons will qualify for this expedited access, allowing TSA to focus its limited screening resources to the highest risk passengers, while expediting the crewmember’s travel. TSA may suspend CMAP program privileges temporarily or permanently for violations of TSA’s regulatory requirements in 49 CFR 1540.103 through 1540.111, or other applicable Federal requirements.⁶ Egregious acts, criminal activity, or intelligence information may also lead to CMAP program disqualification, whether or not there is a regulatory violation associated with the disqualifying behavior or information.

TSA plans to implement CMAP access points on a rolling basis across the country beginning in the summer of 2026, as KCM access points are sunsetted. This gradual transition will permit ongoing operational testing and equipment deployment that is consistent with budgetary needs. However, the CMAP fee will not become

⁴ This expedited access program is limited to domestic aircraft operators covered under 49 CFR part 1544 and is not available to foreign air carriers covered under 49 CFR part 1546.

⁵ See 19 CFR 122.49c, 49 U.S.C. 114, and related Security Directives, which are Sensitive Security Information.

⁶ See 49 U.S.C. Chapter 465 and 49 U.S.C. 46302.

effective until January 1, 2027. As of January 1, 2027, aircraft operators must pay the CMAP fee for any crewmember who uses the CMAP access point.

II. CMAP Program Fee

In 2006, Congress directed TSA to collect a fee to cover the costs of any registered traveler program.⁷ This provision requires TSA to “impose a fee for any registered traveler program undertaken by the Department of Homeland Security by notice in the **Federal Register**” provided that “such fees shall not exceed the aggregate costs associated with the program.”⁸ TSA is also permitted to modify the fee through notice published in the **Federal Register**.⁹

Programs funded under the registered traveler fee authority leverage voluntary participation in additional pre-vetting and/or enhanced identity verification to provide enhanced security and expedite the screening experience.¹⁰ TSA has determined that the CMAP program is a registered traveler program because it permits consenting crewmembers to facilitate their identity verification, and the resulting match to vetting results, by providing TSA access to their biographic and/or biometric data. As noted above, this program facilitates the dedication of TSA’s limited screening resources to higher risk passengers, while expediting the crewmembers’ travel.

TSA developed the cost estimates for the CMAP program in accordance with applicable statutory and policy standards.¹¹ TSA developed models with projected costs and user population to establish a fee recovering the cost of the CMAP program over a 5-year period. To achieve revenue collections to fully recover CMAP program costs, TSA will impose an annual fee on each participating aircraft operator of \$19.00 per crewmember.¹² TSA will invoice aircraft operators annually based on the number of their crewmembers participating in the

CMAP program. If an aircraft operator fails to remit the required fees to TSA within 30 days of the invoice date, its crewmembers may be removed from the CMAP program and ineligible for expedited screening. Participating aircraft operators must provide TSA with a tax identification number and a financial point of contact (name, mailing address, phone number and email address) who TSA will use for billing and other financial matters.

TSA will review this fee at least once every two years to ensure the fee aligns with TSA’s costs to operate the program. TSA will provide notice to the public if it is necessary to modify the fee amount in the future.

Dated: June 25, 2026.

Susan Tashiro,

*Acting Executive Assistant Administrator,
Technology & Systems, Transportation
Security Administration.*

[FR Doc. 2026–13098 Filed 6–29–26; 8:45 am]

BILLING CODE 9110–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1438]

Certain Photovoltaic Trunk Bus Cable Assemblies and Components Thereof; Notice of Final Determination Finding a Violation of Section 337; Issuance of a Limited Exclusion Order; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that respondents Voltage, LLC of Chapel Hill, North Carolina and Ningbo Voltage Smart Production Co. of Ningbo, China (collectively, “Voltage”) have violated section 337, by importing, selling for importation, or selling within the United States after importation certain photovoltaic trunk bus cable assemblies and components thereof that infringe one or more of claims 1, 8, 12, and 20 of U.S. Patent No. 12,015,375 (“the ’375 patent”) and claims 1, 10, and 12 of U.S. Patent No. 12,015,376 (“the ’376 patent”). The Commission has determined that the appropriate remedy is a limited exclusion order (“LEO”) against Voltage’s infringing products. The Commission has also determined to impose a one hundred percent (100%) bond for importations of the excluded articles during the period of Presidential review. This investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT:

Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3179. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION:

The Commission instituted this investigation on February 18, 2025, based on a complaint filed by Shoals Technologies Group, LLC (“Shoals”) of Portland, Tennessee. 90 FR 9730–31 (Feb. 18, 2025). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on the importation into the United States, the sale for importation, and the sale within the United States after importation of certain photovoltaic trunk bus cable assemblies and components thereof by reason of the infringement of certain claims of the ’375 and ’376 patents (collectively, the “Asserted Patents”). *Id.* at 9731. The complaint further alleges that a domestic industry (“DI”) exists. *Id.* The notice of investigation names the two Voltage entities as respondents. *Id.* The Office of Unfair Import Investigations is not named as a party. *Id.*

On August 19, 2025, the Commission affirmed an initial determination granting summary determination that Voltage has failed to show that the Asserted Patents are unenforceable based on inequitable conduct under a theory of but-for materiality. Order No. 19 (July 21, 2025), *unreviewed by Comm’n Notice* (Aug. 19, 2025). In that same order, the ALJ denied summary determination on Voltage’s other unenforceability allegations based on inequitable conduct (under a theory of egregious misconduct) and based on unclear hands, finding that genuine issues of material fact exist as to those allegations. *Id.*

On September 18, 2025, the Commission terminated the investigation as to the following asserted claims based on withdrawal of the complaint: (i) claims 2–4, 6, 7, 9, 11, 15–19, and 21–24 of the ’375 patent and

⁷ Department of Homeland Security Appropriations Act, 2006, Public Law 109–90, sec. 540, 119 Stat. 2064, 2088–89 (2005) (codified at 49 U.S.C. 114 note).

⁸ *Id.*

⁹ *Id.*

¹⁰ See Registered Traveler Interoperability Pilot Program, 73 FR 44275, 44276 (July 20, 2008). See also TSA PreCheck Application Program, 78 FR 72922 (Dec. 4, 2013); TSA Modernized Alternative Identity Verification User Fee 90 FR 52427 (Nov. 20, 2025); TSA Confirm.ID User Fee, 90 FR 55754 (Dec. 3, 2025).

¹¹ See Office of Management and Budget Circular A–25.

¹² Detailed cost, population and fee calculation information is provided in the TSA Crewmember Access Point Program Fee Development Report at www.tsa.gov/ADDRESS.

(ii) claims 2–6, 9, 13–16, and 18–20 of the '376 patent. Order No. 29 (Aug. 26, 2025), *unreviewed by Comm'n Notice* (Sept. 18, 2025).

On February 6, 2026, the ALJ issued a combined final initial determination ("FID") and recommended determination ("RD") on remedy and bonding. The FID finds violations of section 337 with respect to the remaining asserted claims 1, 8, 12, and 20 of the '375 patent and claims 1, 10, and 12 of the '376 patent. Specifically, the FID finds that: (i) Shoals has standing to assert both Asserted Patents; (ii) Voltage's accused products literally practice the asserted claims listed above and, thus, Voltage directly infringes those claims; (iii) Voltage both induced and contributed to the infringement of each of the asserted claims listed above; (iv) none of the remaining asserted claims is invalid; (v) Voltage has failed to show that the Asserted Patents are unenforceable due to unclean hands; and (vi) Shoals has satisfied the technical and economic prongs of the DI requirement as to both Asserted Patents. The FID also finds that, as to the six alternative designs ("ADs") of the accused LYNX product submitted by Voltage for adjudication in this investigation (the "1438 ADs"), (i) the Spiral, Taper, and Taper-30 ADs each literally practice at least one remaining asserted claim of each Asserted Patent, and that (ii) the P-weld, D-weld, and Bolt ADs do not practice any of the remaining asserted claims. The RD recommends that, if the Commission determines that a violation of section 337 has occurred, the Commission should: (i) issue an LEO against Voltage's infringing products; (ii) not issue cease and desist orders against the Voltage respondents; and (iii) impose a 100 percent bond for importations of infringing products during the period of Presidential review.

On February 20, 2026, Voltage filed a petition seeking review of certain findings in the FID concerning (i) claim construction and infringement of the Asserted Patents, and (ii) Voltage's allegations that the Asserted Patents are unenforceable based on unclean hands. That same day, Shoals filed a petition seeking review of the FID's adjudicability findings concerning the 1438 ADs found non-infringing (*i.e.*, the P-weld, D-weld, and Bolt ADs). On March 2, 2026, Shoals and Voltage each filed a response opposing the other's petition.

On March 9, 2026, Shoals filed a submission on the public interest pursuant to Commission Rule 210.50(a)(4) (19 CFR 210.50(a)(4)). The Commission did not receive a

submission from Voltage. The Commission also received three public interest submissions in response to the Commission's **Federal Register** notice from Senators Marsha Blackburn and Bill Hagerty, from Representative John Rose, and from the Tennessee Chamber of Commerce. *See* 91 FR 6662–63 (Feb. 12, 2026).

On April 15, 2026, Voltage filed a motion pursuant to Commission Rules 210.15(a)(2) and 210.38(a) (19 CFR 210.15(a)(2) and 210.38(a)), asking the Commission to reopen the record to admit as evidence four documents purportedly relating to its unclean hands defense. On April 27, 2026, Shoals filed a response opposing Voltage's motion.

On May 1, 2026, the Commission determined to review in part the FID. 91 FR 24605–07 (May 6, 2026). Specifically, the Commission determined to review the FID's finding that Shoals has satisfied the economic prong of the DI requirement as to the Asserted Patents. *Id.* at 24606. The Commission determined not to review the remaining findings in the FID. *Id.* The Commission also determined to deny Voltage's motion to reopen the record. *Id.*

The Commission's notice requested written submissions from the parties, interested government agencies, and any other interested persons on the issues of remedy, the public interest, and bonding. *Id.* at 24607. Shoals and Voltage each timely filed an initial written submission on May 15, 2026, and filed a reply submission on May 22, 2026. On May 19, 2026, then-Chair Karpel granted a request by non-party American Wire Group to file a written submission out of time on May 18, 2026.

On June 9, 2026, Voltage filed a motion pursuant to Commission Rule 210.15(a)(2) (19 CFR 210.15(a)(2)), asking the Commission to take judicial notice of a memorandum opinion recently issued in the parties' parallel district court litigation, *Shoals Techs. Group, LLC v. Voltage, LLC and Ningbo Voltage Smart Production Co.*, Civ. No. 1:25-cv-00026 (M.D.N.C.). Shoals did not file a response to Voltage's motion.

The Commission, having reviewed the record in this investigation, including the FID, the parties' petitions and responses thereto, the parties' briefs on the issues of remedy, the public interest, and bonding, and the public submissions on remedy, the public interest, and bonding, has determined that Voltage has violated section 337, by importing, selling for importation, or selling within the United States after importation certain photovoltaic trunk bus cable assemblies and components

thereof that infringe one or more of claims 1, 8, 12, and 20 of the '375 patent and claims 1, 10, and 12 of the '376 patent. Specifically, the Commission affirms with modified reasoning the FID's finding that Shoals has satisfied the economic prong of the DI requirement as to both Asserted Patents. The Commission takes no position with respect to any other reasoning set forth in the FID in support of its economic prong finding. Commissioner Karpel would affirm the FID's economic prong findings in their entirety.

The Commission has determined that the appropriate remedy is an LEO against Voltage prohibiting the importation of certain photovoltaic trunk bus cable assemblies and components thereof that infringe one or more of claims 1, 8, 12, and 20 of the '375 patent and claims 1, 10, and 12 of the '376 patent. The Commission has also determined that the public interest factors do not preclude issuance of the remedial order. The Commission has further determined to impose a one hundred percent (100%) bond for importations of the excluded articles during the period of Presidential review (19 U.S.C. 1337(j)).

The Commission issues its opinion herewith setting forth its determinations on certain issues. This investigation is hereby terminated.

The Commission vote for this determination took place on June 25, 2026.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 25, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–13128 Filed 6–29–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–653 and 731–TA–1527 (Review)]

Standard Steel Welded Wire Mesh From Mexico; Scheduling of Expedited Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited

reviews pursuant to the Tariff Act of 1930 (“the Act”) to determine whether revocation of the antidumping and countervailing duty orders on standard steel welded wire mesh from Mexico would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: June 5, 2026.

FOR FURTHER INFORMATION CONTACT: Alec Resch (202–708–1448), 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:

Background.—On June 5, 2026, the Commission determined that the domestic interested party group response to its notice of institution (91 FR 10136, March 2, 2026) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.¹ Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act (19 U.S.C. 1675(c)(3)).

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 and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the reviews has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for these reviews on August 20, 2026. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission’s rules.

Written submissions.—As provided in § 207.62(d) of the Commission’s rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,² and any party other than an interested party to the reviews may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before 5:15 p.m. on August 27, 2026 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by August 27, 2026. However, should the Department of Commerce (“Commerce”) extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce’s final results is three business days after the issuance of Commerce’s results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission’s rules. The Commission’s *Handbook on Filing Procedures*, available on the Commission’s website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission’s procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined that these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

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.

² The Commission has found the responses submitted on behalf of Keysteel Corporation, Mid-South Wire Company, National Wire LLC, Oklahoma Steel & Wire Co., and Wire Mesh Corp. to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

Issued: June 26, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–13183 Filed 6–29–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1507]

Certain Heavy Machinery and Components Thereof; Notice of Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 26, 2026, under section 337 of the Tariff Act of 1930, as amended, on behalf of Caterpillar Inc of Irving, Texas. A supplement to the complaint was filed on June 11, 2026. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain heavy machinery and components thereof by reason of the infringement of certain claims of U.S. Patent No. 8,515,637 (“the ‘637 patent”); U.S. Patent No. 9,133,837 (“the ‘837 patent”); U.S. Patent No. 9,347,554 (“the ‘554 patent”); and U.S. Patent No. 10,059,341 (“the ‘341 patent”). The complaint, as supplemented, further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

¹ A record of the Commissioners’ votes, the Commission’s statement on adequacy, and any individual Commissioner’s statements will be available from the Office of the Secretary and at the Commission’s website.

FOR FURTHER INFORMATION CONTACT:

Susan Orndoff, The Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205-1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2025).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on June 25, 2026, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1-4, 12-14, 17 and 18 of the '637 patent; claims 1, 4, 5, 7, and 9-17 of the '837 patent; claims 1-11 of the '554 patent; and claims 1-4 of the '341 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is "telehandlers, excavators, and loaders, and components thereof";

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Caterpillar Inc., 5205 N. O'Connor Blvd., Suite 100, Irving, TX 75039.
(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Doosan Bobcat Inc., Bundang Doosan Tower, 155 Jeongjail-ro, Bundang-gu, Seongnam-si, Gyeonggi-do 13557, Republic of Korea.

Doosan Bobcat North America, Inc., 250 East Beaton Dr., West Fargo, ND 58078.

Doosan Bobcat Mexico Monterrey, S. de R.L. de C.V., Avenida Internacional #305, Parque Industrial Interpuerto Monterrey, 65500 Salinas Victoria, Nuevo León, Mexico.

Doosan Bobcat EMEA S.R.O., U Kodetky 1810, 263 12 Dobříš, Czech Republic.

Doosan Bobcat France S.A.S., 55 Rue du Chêne Vert, 44160 Pontchâteau, France.

Doosan Bobcat India Private Ltd., 6th Floor, HTC Towers, 41 Grand Southern Trunk Road, Guindy, Chennai 600032, India.

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: June 26, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026-13151 Filed 6-29-26; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1486]

Certain Disposable and Other Closed-System Electronic Nicotine Delivery Systems (ENDS); Devices and Components Thereof; Notice of a Commission Determination Not To Review an Initial Determination Amending the Complaint and Notice of Investigation To Add Proposed Respondents

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 13) of the presiding administrative law judge ("ALJ") granting a motion to amend the complaint and notice of investigation to add proposed respondents Nevera (HK) Limited, Wonder Ladies Limited, Sailing South Limited, Palma Terra Limited, and Marea Morada Limited (the "Proposed Respondents").

FOR FURTHER INFORMATION CONTACT:

Edward S. Jou, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-3316. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 3, 2026, based on a complaint filed by R.J. Reynolds Tobacco Company, R.J. Reynolds Vapor Company, RAI Services Company, and Reynolds Marketing Services Company of Winston-Salem, North Carolina (collectively, "Complainants"). 91 FR 10414-15 (Mar. 3, 2026). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States and the sale of certain disposable and other closed-system electronic nicotine delivery systems (ENDS) devices and

components thereof by reason of unfair methods of competition and unfair acts based on violations of the Prevent All Cigarette Trafficking Act, 15 U.S.C. 375 *et seq.*, the threat or effect of which is to destroy or substantially injure an industry in the United States. *Id.* The notice of investigation named as respondents D&A Distribution, LLC d/b/a a Strictly E-cig of Savannah, Georgia; ECTO World LLC d/b/a Demand Vape of Buffalo, New York; Geek Miracle (HK) Limited of Hong Kong, China; Guangdong Qisitech Co., Ltd. of Guangdong, China; Headway Funding Inc. d/b/a Jewel Distribution of Agoura Hills, California; Heaven Gifts International Ltd. of Shenzhen, China; iMiracle HK Limited of Hong Kong, China; iMiracle (Shenzhen) Technology Co. Ltd. of Shenzhen, China; Magellan Technology Inc. of Buffalo, New York; Midwest Goods Inc. d/b/a Midwest Distribution Illinois of Bensenville, Illinois; RZ Smoke Inc. of Suffield, Connecticut; Safa Goods, LLC of Punta Gorda, Florida; Shenzhen Geekvape Technology Co., Ltd of Shenzhen, China; Texas Central Distribution LLC of Houston, Texas; Unishow USA, Inc. of Houston, Texas; and Zhuhai Qisitech Co., Ltd. of Zhuhai, China (collectively, "Respondents"). *Id.* at 10415. The Office of Unfair Import Investigations is also a party in this investigation. *Id.*

On May 8, 2026, Complainants filed a motion to amend the complaint and notice of investigation to add the Proposed Respondents to the investigation based on information obtained in discovery. On May 20, 2026, Respondents filed a response in opposition to the motion, and OUII filed a response stating that they did not oppose the motion. On May 26, 2026, Complainants filed a reply in support of the motion.

On June 1, 2026, the ALJ issued the subject ID granting the motion to amend the complaint and notice of investigation to add the Proposed Respondents. The ID found that Complainants demonstrated good cause and that the amendment would not prejudice the private parties or the public interest. No petitions for review of the subject ID were filed.

The Commission has determined not to review the subject ID. The complaint and notice of investigation are amended to add respondents Nevera (HK) Limited, Wonder Ladies Limited, Sailing South Limited, Palma Terra Limited, and Marea Morada Limited.

The Commission vote for this determination took place on June 26, 2026.

The authority for the Commission's determination is contained in section

337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 26, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026-13181 Filed 6-29-26; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-1734]

Importer of Controlled Substances Application: Almac Clinical Services Incorp. (ACSI)

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Almac Clinical Services Incorp. (ACSI) has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before July 30, 2026. Such persons may also file a written request for a hearing on the application on or before July 30, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement

Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on May 5, 2026, ACSI, 25 Fretz Road, Souderton, Pennsylvania 18964, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Psilocybin	7437	I
Oxycodone	9143	II
Hydromorphone	9150	II
Morphine	9300	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to import the listed controlled substances as finished dosage form units for clinical trial purposes only. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Thomas Prevostnik,

Deputy Assistant Administrator.

[FR Doc. 2026-13145 Filed 6-29-26; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-1735]

Bulk Manufacturer of Controlled Substances Application: Veranova, L.P.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Veranova, L.P. has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit

electronic comments on or objections to the issuance of the proposed registration on or before August 31, 2026. Such persons may also file a written request for a hearing on the application on or before August 31, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment

field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been

successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on April 24, 2026, Veranova, L.P., 25 Patton Road, Pharmaceutical Service, Devens, Massachusetts 01434–3803, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Lysergic Acid Diethylamide	7315	I
3,4-Methylenedioxymethamphetamine	7405	I
Dimethyltryptamine	7435	I
Amphetamine	1100	II
Methylphenidate	1724	II
Nabilone	7379	II
Hydrocodone	9193	II
Levorphanol	9220	II
Thebaine	9333	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II

The company plans to bulk manufacture the listed controlled substances in order to support the manufacturing and analytical testing activities at its other Drug Enforcement Administration-registered manufacturing facility. No other activities for these drug codes are authorized for this registration.

Thomas Prevoznik,

Deputy Assistant Administrator.

[FR Doc. 2026–13147 Filed 6–29–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1732]

Importer of Controlled Substances Application: Catalent Pharma Solutions, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Catalent Pharma Solutions, LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before July 30, 2026. Such persons

may also file a written request for a hearing on the application on or before July 30, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on May 28, 2026, Catalent Pharma Solutions, LLC, 3031 Red Lion

Road, Philadelphia, Pennsylvania 19114–1123, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Lysergic acid diethylamide.	7315	I
5-Methoxy-N–N–dimethyltryptamine.	7431	I
Psilocybin	7437	I

The company plans to import the listed controlled substances as finished dosage unit products for clinical trials, research, and analytical activities. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Thomas Prevoznik,

Deputy Assistant Administrator.

[FR Doc. 2026–13144 Filed 6–29–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE**Drug Enforcement Administration****[Docket No. DEA-1736]****Importer of Controlled Substances
Application: Veterans
Pharmaceuticals, Inc.****AGENCY:** Drug Enforcement
Administration, Justice.**ACTION:** Notice of application.**SUMMARY:** Veterans Pharmaceuticals, Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.**DATES:** Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration

on or before July 30, 2026. Such persons may also file a written request for a hearing on the application on or before July 30, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is noneed to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA **Federal Register** Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152.**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 1301.34(a), this is notice that on April 2, 2026, Veterans Pharmaceuticals, Inc., 43385 Business Park Drive, Suite 150, Temecula, California 92590-3737, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Lysergic acid diethylamide	7315	I
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Mescaline	7381	I
3,4-Methylenedioxymphetamine	7400	I
5-Methoxy-N, N-dimethyltryptamine	7431	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
Methamphetamine	1105	II

The company plans to import the listed controlled substances to support research and clinical trials. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2).

Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Thomas Prevoznik,*Deputy Assistant Administrator.*

[FR Doc. 2026-13148 Filed 6-29-26; 8:45 am]

BILLING CODE:P**DEPARTMENT OF JUSTICE****Drug Enforcement Administration****[Docket No. DEA-1733]****Importer of Controlled Substances
Application: United States
Pharmacoepial Convention****AGENCY:** Drug Enforcement
Administration, Justice.**ACTION:** Notice of application.**SUMMARY:** United States Pharmacopeial Convention has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.**DATES:** Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on, or objections to the issuance of the proposed registration on or before July 30, 2026. Such persons may also file a written request for a hearing on the application on or before July 30, 2026.**ADDRESSES:** The Drug Enforcement Administration requires that all

comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA **Federal Register** Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator,

8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this

is notice that on June 1, 2026, United States Pharmacopeial Convention, 7135 English Muffin Way, Frederick, Maryland 21704, applied to be

registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I

The company plans to import the listed controlled substances for distribution as analytical reference standards to its customers for analytical testing of raw materials. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Thomas Prevoznik,

Deputy Assistant Administrator.

[FR Doc. 2026-13164 Filed 6-29-26; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[OMB Number 1121-0235]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Patrick Leahy Bulletproof Vest Partnership Program

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Office of Justice Programs, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until July 30, 2026.

FOR FURTHER INFORMATION CONTACT: To request additional information about this information collection request, please contact: Leanetta Jessie, 999 N. Capitol St. NE, Washington, DC 20002 or leanetta.jessie@usdoj.gov or (202) 598-1160.

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal**

Register on April 23, 2026, 91 FR 21852, allowing a 60-day comment period. 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 1121-0235. This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Justice, information collections currently under review by OMB. Please provide a copy of your comments POC Leanetta Jessie, email leanetta.jessie@usdoj.gov and reference OMB # 1121-0235 in the subject line of your comments.

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 information collection requirements 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:* Reinstatement of a previously approved collection.
2. *Title of the Form/Collection:* Patrick Leahy Bulletproof Vest.
3. *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. The program application can be found at the Bureau of Justice Assistance, United States Department of Justice's website at <https://grants.ojp.usdoj.gov/bvp/login/externalAccess.jsp>.
4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Jurisdictions and law enforcement agencies with armor vest needs.

Abstract: The purpose of the Bulletproof Vest Partnership (BVP) Program is to help protect the lives of law enforcement officers by helping states and units of local and tribal governments within states provision their officers with armor vests. An applicant may request funds to help purchase one vest per officer per fiscal year. Federal payment covers up to 50 percent of each jurisdiction's local costs. This program is administered in accordance with 12 U.S.C. 3976ii *et seq.*

5. *Obligation to Respond:* Required to Obtain or Retain Benefits.

6. *Total Estimated Number of Respondents:*

7. *Estimated Time per Respondent:* 4273.

8. *Frequency:* Once.

9. *Total Estimated Annual Time Burden:* 4273 hours.

10. *Total Estimated Annual Other Costs Burden:*

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Enterprise Portfolio Management, Justice Management Division, United States Department of

Justice, Two Constitution Square, 145 N Street NE, 4W-218 Washington, DC 20530.

Dated: June 26, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026-13150 Filed 6-29-26; 8:45 am]

BILLING CODE 4410-18-P

DEPARTMENT OF JUSTICE

[OMB Number 1121-0335]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Title—National Motor Vehicle Title Information System (NMVTIS)

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Office of Justice Programs, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until July 30, 2026.

FOR FURTHER INFORMATION CONTACT: To request additional information about this information collection request, please contact: Leanetta Jessie, 999 N. Capitol St NE, Washington, DC 20002, leanetta.jessie@usdoj.gov or phone (202) 598-1160.

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register** on April 23, 2026, 91 FR 21851, allowing a 60-day comment period. 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 1121-0335. This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Justice, information collections currently under review by OMB. Please provide a copy of your comments POC Leanetta Jessie, Leanetta.jessie@usdoj.gov and reference OMB # 1121-0335 in the subject line of your comments.

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 information collection requirements 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: Reinstatement of a previously approved collection.

2. Title of the Form/Collection: National Motor Vehicle Title Information System (NMVTIS)

3. Agency form number, if any, and the applicable component of the Department of sponsoring the collection. There is no form number associated with this information collection.

4. Affected public who will be asked or required to respond, as well as a brief abstract:

Affected Public: Auto recyclers, junk yards and salvage yards are required to report information into NMVTIS. The Anti-Car Theft Act, defines junk and salvage yards “as individuals or entities engaged in the business of acquiring or owning junk or salvage automobiles for resale in their entirety or as spare parts or for rebuilding, restoration, or

crushing.” Included in this definition are scrap-vehicle shredders and scrap-metal processors, as well as “pull- or pick-apart yards,” salvage pools, salvage auctions, and other types of auctions, businesses, and individuals that handle salvage vehicles (including vehicles declared a “total loss”).

Abstract: Reporting information on junk and salvage vehicles to the National Motor Vehicle Title Information System (NMVTIS)—supported by the U.S. Department of Justice (DOJ)—is required by federal law. Under federal law, junk and salvage yards must report certain information to NMVTIS on a monthly basis. This legal requirement has been in place since March 2009, following the promulgation of regulations (28 CFR part 25) to implement the junk- and salvage-yard reporting provisions of the Anti-Car Theft Act (codified at 49 U.S.C. 30501–30505).

Accordingly, a junk or salvage yard within the United States must, on a monthly basis, provide an inventory to NMVTIS of the junk or salvage automobiles that it obtained (in whole or in part) in the prior month. 28 CFR 25.56(a).

An NMVTIS Reporting Entity includes any individual or entity that meets the federal definition, found in the NMVTIS regulations at 28 CFR 25.52, for a “junk yard” or “salvage yard.” According to those regulations, a junk yard is defined as “an individual or entity engaged in the business of acquiring or owning junk automobiles for (1) Resale in their entirety or as spare parts; or (2) Rebuilding, restoration, or crushing.” The regulations define a salvage yard as “an individual or entity engaged in the business of acquiring or owning salvage automobiles for—(1) Resale in their entirety or as spare parts; or (2) Rebuilding, restoration, or crushing.” These definitions include vehicle remarketers and vehicle recyclers, including scrap vehicle shredders and scrap metal processors as well as “pull- or pick-apart yards,” salvage pools, salvage auctions, used automobile dealers, and other types of auctions handling salvage or junk vehicles (including vehicles declared by any insurance company to be a “total loss” regardless of any damage assessment). Businesses that operate on behalf of these entities or individual domestic or international salvage vehicle buyers, sometimes known as “brokers” may also meet these regulatory definitions of salvage and junk yards. It is important to note that industries not specifically listed in the junk yard or salvage yard definition may still meet one of the definitions and,

therefore, be subject to the NMVTIS reporting requirements.

An individual or entity meeting the junk yard or salvage yard definition is subject to the NMVTIS reporting requirements if that individual or entity handles 5 or more junk or salvage motor vehicles per year and is engaged in the business of acquiring or owning a junk automobile or a salvage automobile for—“(1) Resale in their entirety or as spare parts; or (2) Rebuilding, restoration, or crushing.” Reporting entities can determine whether a vehicle is junk or salvage by referring to the definitions provided in the NMVTIS regulations at 28 CFR 25.52. An NMVTIS Reporting Entity is required to report specific information to NMVTIS within one month of receiving such a vehicle, and failure to report may result in assessment of a civil penalty of \$1,000 per violation.

5. *Obligation to Respond:* An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: There are 50,383 in JSI (meaning entities issued a reporting ID number), of which 21,612 have submitted at least one report. The estimate for the average amount of time for each business to report varies: 30–60 minutes (estimated). The states and insurance companies already are capturing most of the data needed to be reported, and the reporting consists of electronic, batch uploaded information. So, for those automated companies the reporting time is negligible. For smaller junk and salvage yard operators who would enter the data manually, it is estimated that it will take respondents an average of 30–60 minutes per month to respond.

6. *Total Estimated Number of Respondents:* 50,383.

7. *Estimated Time per Respondent:* 30–60 minutes.

8. *Frequency:* Once.

9. *Total Estimated Annual Time Burden:* 259,00 hours.

10. *Total Estimated Annual Other Costs Burden:* $21,612 \times 30$ minutes per month (12 times per year) = 648,360. $21,612 \times 60$ minutes per month (12 times per year) = 1,296,720.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Enterprise Portfolio Management, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W–218 Washington, DC 20530.

Dated: June 26, 2026

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–13149 Filed 6–29–26; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 26–037]

Name of Information Collection: NASA Astronaut Candidate Selection Qualifications Inquiry

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of revision of a currently approved information collection.

SUMMARY: NASA, as part of its continuing effort to reduce paperwork and respondent burden, under the Paperwork Reduction Act (PRA), invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by July 30, 2026.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain.

Find this particular information collection by selecting “Currently under Review—Open for Public Comments”.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NASA PRA Clearance Officer, Stayce Houlte, NASA Headquarters, 300 E Street SW, JC0000, Washington, DC 20546, or email hq-ocio-pra-program@mail.nasa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information supports the National Aeronautics and Space Act of 1958, as amended, to create opportunities to improve processes associated with the evaluation and selection of individuals to participate in the NASA Astronaut Candidate Selection Program. The NASA Astronaut Selection Office (ASO) located at the Lyndon B. Johnson Space Center (JSC) in Houston, Texas, is responsible for selecting astronauts for the various United States Space Exploration programs. In evaluating an applicant for the Astronaut Candidate Program, it is important that the ASO

has the benefit of qualitative and quantitative information and recommendations from persons who have been directly associated with the applicant over the course of their career. This information will be used by NASA ASO and Human Resources personnel, during the candidate selection process, to gain insight into the candidates’ work ethic and professionalism as demonstrated in previous related employment activities. Respondents may include the astronaut candidate’s previous employer(s)/direct-reporting manager, as well as co-workers and other references provided by the candidate.

NASA is committed to effectively performing the Agency’s communication function in accordance with Section 203(a)(3) of the National Aeronautics and Space Act of 1958 (as amended) dictates that NASA “provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof”, and to enhance public understanding of, and participation in, the nation’s aeronautical and space program.

II. Methods of Collection

Electronic and optionally by paper

III. Data

Title: NASA Astronaut Candidate Selection Qualifications Inquiry.
OMB Number: 2700–0156.

Type of review: Revision of a currently approved information collection.

Affected Public: Individuals.

Estimated Annual Number of Activities: 1.

Estimated Number of Respondents per Activity: 2250.

Annual Responses: 2250.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 750.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA’s estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Stayce Hoult,

PRA Clearance Officer, National Aeronautics and Space Administration.

[FR Doc. 2026–13110 Filed 6–29–26; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

60-Day Notice for the Blanket Justification for National Endowment for the Arts Funding Application Guidelines and Requirements

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Notice of proposed collection; comment request.

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data is provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents is properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection of: Blanket Justification for NEA Funding Application Guidelines and Reporting Requirements. A copy of the current information collection request can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the address section below by August 31, 2026. We are particularly interested in comments that:

- 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
- Can help the agency minimize the burden of the collection of information on those who are to respond, including through the electronic submission of responses.

ADDRESSES: Email comments to Daniel Beattie, Director, Office of Guidelines and Panel Operations, National Endowment for the Arts, at beattied@arts.gov.

Dated: June 25, 2026.

David Travis,

Specialist, Office of Guidelines and Panel Operations, National Endowment for the Arts.

[FR Doc. 2026–13122 Filed 6–29–26; 8:45 am]

BILLING CODE 7537–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105776; File No. SR–MEMX–2026–17]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 22.3, Market Maker Class Appointments

June 25, 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 18, 2026, MEMX LLC (“MEMX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Rule 22.3, Market Maker Class Appointments, to clarify the cutoff time by which an Options Market Maker⁴

must enter an appointment request to one or more classes of option contracts traded on the Exchange. The text of the proposed rule change is provided in Exhibit 5 and is available on the Exchange's website at <https://info.memxtrading.com/regulation/rules-and-filings/>.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 22.3, Market Maker Class Appointments, to amend the cutoff time by which Options Market Makers may enter an appointment request for one or more options contracts traded on the Exchange. As discussed more fully below, the Exchange notes that other options exchanges have similar rules and cutoff times for entering Market Maker Class Appointments, and as such, the Exchange does not believe this proposal presents any novel issues not previously considered by the Commission.

Rule 22.3(b) currently states that an Options Market Maker may enter an appointment request via an Exchange approved electronic interface with the Exchange's systems by 9:00 a.m. Eastern Time, which appointment becomes effective on the day the Market Maker enters the appointment request. In practice, however, Market Makers utilize the Exchange's User Portal to upload Market Maker Class Appointments, and those uploads are automatically incorporated into the Exchange's systems for that trading day if uploaded prior to 6:00 a.m. Eastern Time. The Exchange has allowed Members to manually reach out via email or telephone in order to make any

options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter 22 of the Exchange's Rules. See Exchange Rule 16.1.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

⁴ The term “Options Market Maker” and “Market Maker” mean an Options Member registered with the Exchange for the purpose of making markets in

changes to their Market Maker Class Appointments, which are honored same-day if received prior to 9:00 a.m., as indicated in the current Rule 22.3(b). However, in order to facilitate a more streamlined process, the Exchange now wishes to amend Rule 22.3(b) by amending the cutoff time to 6:00 a.m. in order to match the time when the User Portal automatically cuts off the uploading of effective Market Maker Class Appointments for the day. The Exchange believes this rule change mitigates the risk of a Member incorrectly assuming User Portal functionality is available until 9:00 a.m., thereby avoiding unexpected manual Market Maker Class Appointment requests to the Exchange. Consequently, the Exchange believes that utilizing the existing User Portal cutoff time reduces the potential for human error by both Members and the Exchange when establishing daily Market Maker Class Appointments.

As noted above, the Exchange does not believe that this amendment would impose an undue burden on Members, as other exchanges have cutoff times that are even more conservative than 6:00 a.m. For example, MIAX Options Exchange (“MIAX Options”) and MIAX Emerald Exchange (“MIAX Emerald”) require appointments to and relinquishment of appointments from classes of options prior to 6:00 p.m. Eastern Time of the business day immediately preceding the next trading day.⁵ Additionally, NYSE Arca Options (“NYSE Arca”) and NYSE American Options (“NYSE American”) do not have a specific cutoff time, but note that appointment requests must be submitted on a day the exchange is open for business, and that the appointment will become effective by no later than the following business day.⁶

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,⁷ in general, and furthers the objectives of Section 6(b)(5),⁸ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and

open market and a national market system, and protect investors and the public interest.

In particular, the Exchange believes that amending the cutoff time for same-day Market Maker Class Appointments will remove impediments to and perfect the mechanism of a free and open market and a national market system by avoiding any uncertainty and potential human error in the process of establishing Market Maker Class Appointments for the trading day. Effectively, the process will continue to operate in the same manner as it does today in that the system cuts off requests for Market Maker Class Appointments via the User Portal for the day at 6:00 a.m. Eastern Time. This proposal simply codifies that time and does not allow for any manual uploads after that cutoff time. In addition, the proposed rule change will not affect the protection of investors as this amendment is consistent with the rules of other options exchanges, as noted above.⁹

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 is not intended to address competitive issues but rather to clarify the current automated systems within the rule text and avoid any potential confusion regarding the cutoff time for the effectiveness of Market Maker Class Appointments for the day. The cutoff time will apply equally to all Members of the Exchange and is similar to the cutoff times of other exchanges, as discussed above.

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 Act¹⁰ and Rule 19b-4(f)(6)¹¹ 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 Act¹² and Rule 19b-4(f)(6)¹³ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹⁴ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁵ 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 amendment to modify the Market Maker Class Appointment cutoff time in MEMX Rule 22.3(b) from 9:00 a.m. Eastern Time to 6:00 a.m. Eastern Time would match the time when the User Portal automatically cuts off the uploading of effective Market Maker Class Appointments for the day. The proposed change would facilitate a more streamlined process because the alignment of cutoff times provides better clarity for Members when establishing daily Market Maker Class Appointments and mitigates the risk of potential human error should a Member incorrectly assume the User Portal functionality is available until 9:00 a.m. Eastern Time. Because the proposed rule change is consistent with the cutoff times of other options exchanges and allows a process to continue to operate in the same manner as it does today, the proposal does not raise any novel legal or unique regulatory issues. 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

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 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.

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 17 CFR 240.19b-4(f)(6)(iii).

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).

⁵ See MIAX Options Rule 602, Interpretation and Policy .02, and MIAX Emerald Rule 602, Interpretation and Policy .02.

⁶ See NYSE Arca Rule 6.35-O(c) and NYSE American Rule 923NY(c).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ See *supra* notes 5 and 6.

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MEMX-2026-17 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-MEMX-2026-17. 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-MEMX-2026-17 and should be submitted on or before July 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-13113 Filed 6-29-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105773; File No. SR-MSRB-2026-03]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Consisting of Amendments to MSRB Rule G-28, on Transactions With Employees and Partners of Other Municipal Securities Professionals, To Harmonize and Better Align With FINRA Rule 3210, on Accounts at Other Broker-Dealers and Financial Institutions

June 25, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 18, 2026 the Municipal Securities Rulemaking Board ("MSRB") 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 MSRB. 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 MSRB filed with the Commission a proposed rule change consisting of amendments to MSRB Rule G-28, on transactions with employees and partners of other municipal securities professionals, to harmonize and better align MSRB Rule G-28 applicable to brokers, dealers and municipal securities dealers ("dealers") with the Financial Industry Regulatory Authority ("FINRA") Rule 3210, on accounts at other broker-dealers and financial institutions. Broadly, the amendments would (i) expand the scope of accounts covered by the rule to those of any associated person of the employer dealer or those in which the associated person has a beneficial interest (as described below), as well as to accounts

at other financial institutions (as described below) in addition to accounts at executing dealers; (ii) clarify that an associated person of an employer dealer may not open or otherwise establish an account for the associated person or an account in which the associated person has a beneficial interest (as defined below) at an executing dealer or any other financial institution (as described below) without prior written consent from the employer dealer; (iii) obligate an associated person to provide written notification to the executing dealer or other financial institution of such person's association with the employer dealer before opening or otherwise establishing an account with such executing dealer or other financial institution; (iv) streamline the obligations related to confirmation delivery by allowing duplicate copies of confirmations and account statements, or transactional data that would be contained therein, to be provided only upon request; and (v) adopt new supplementary material to clarify the requirements of the rule's provisions (the "proposed rule change"). The proposed rule change would also make technical amendments to retitle MSRB Rule G-28 as well as certain provisions set forth in the rule for additional clarity. The proposed amendments are addressed below.

The MSRB has designated the proposed rule change as constituting a "noncontroversial" rule change under Section 19(b)(3)(A)³ of the Exchange Act and Rule 19b-4(f)(6)⁴ thereunder, which renders the proposal effective upon receipt of this filing by the Commission. The operative date for the proposed rule change would be September 16, 2026. Until such operative date, dealers would be subject to the existing provisions of MSRB Rule G-28, but may choose to come into compliance with the proposed rule change prior to the operative date.

The text of the proposed rule change is available on the MSRB's website at <https://msrb.org/2026-SEC-Filings> and at the MSRB's principal office.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB 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

¹⁷ 17 CFR 200.30-3(a)(12) and (59).

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)(6).

may be examined at the places specified in Item IV below. The MSRB 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

MSRB Rule G–28 establishes requirements for the opening and maintenance of accounts that effect transactions in municipal securities for employees or partners of dealers (“employer dealers”) by another dealer (“executing dealers”). The proposed rule change is intended to more closely harmonize provisions under MSRB Rule G–28 to FINRA Rule 3210 in furtherance of promoting greater efficiency for dealers in complying with their regulatory obligations. The MSRB adopted MSRB Rule G–28 in 1978,⁵ alongside several other rules, the purpose of which was to “codify basic standards of fair and ethical business conduct for municipal securities professionals.”⁶ The rule was adopted to prevent an employee of a dealer from effecting transactions that are contrary to the interests of the employer dealer or from otherwise acting illegally or improperly with respect to the transactions in municipal securities.⁷ The substantive provisions of MSRB Rule G–28 have, by and large, remained unchanged since the rule’s adoption in 1978,⁸ with the exception of the addition of section (c), the exemption for transactions and accounts involving municipal fund securities.⁹

In pertinent part,¹⁰ current section (a) of MSRB Rule G–28 prohibits the

opening and/or maintenance by an executing dealer of any account in which transactions in municipal securities may be effected, if the executing dealer knows its customer to be an employee or partner of an employer dealer (or a spouse or child of such person), without first providing written notice to the employer dealer. Additionally, section (b) requires the executing dealer to simultaneously send to the employer dealer a duplicate copy of each confirmation sent to the customer in connection with any effectuated transactions, and to act in accordance with any written instructions provided by the employer dealer in connection with the subject account.

In 2015, FINRA combined and reorganized certain predecessor rules to create FINRA Rule 3210,¹¹ the requirements of which differ from those of MSRB Rule G–28. As part of its ongoing retrospective rule review,¹² the MSRB is mindful of the potential burden on regulated entities of unnecessary inconsistencies between MSRB rules and rules of other regulators applicable to other aspects of an entity’s business. The proposed rule change seeks to harmonize requirements, to the extent possible, for dealers that are subject to the rules of both the MSRB and FINRA.

Broadly, the MSRB is proposing to amend the text of MSRB Rule G–28 to (i) expand the scope of accounts covered by the rule to those of any employee or partner (“associated person”) ¹³ of the employer dealer or those in which the associated person has a beneficial interest (as described below), as well as to accounts at other financial institutions (as described below) in addition to accounts at executing dealers; (ii) clarify that an associated person of an employer dealer may not open or otherwise establish an account for the associated person or an account

Rule 3210.03. The MSRB is not proposing to amend MSRB Rule G–28(c).

¹¹ See Exchange Act Release No. 77550 (Apr. 7, 2016), 81 FR 21924 (Apr. 13, 2016), File No. SR–FINRA–2015–029.

¹² See MSRB Rulebook Modernization web page, available at <https://www.msrb.org/Rulebook-Modernization>.

¹³ Under Section 3(a)(18) of the Exchange Act (15 U.S.C. 78c(a)(18)), the term “person associated with a broker or dealer” or “associated person of a broker or dealer” means any partner, officer, director, or branch manager of such broker or dealer (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such broker or dealer, or any employee of such broker or dealer, except that any person associated with a broker or dealer whose functions are solely clerical or ministerial shall not be included in the meaning of such term.

in which the associated person has a beneficial interest (as defined below) at an executing dealer or any other financial institution (as described below) without prior written consent from the employer dealer; (iii) obligate an associated person to provide written notification to the executing dealer or other financial institution of such person’s association with the employer dealer before opening or otherwise establishing an account with such executing dealer or other financial institution; (iv) streamline the obligations related to confirmation delivery by allowing duplicate copies of confirmations and account statements, or transactional data that would be contained therein, to be provided only upon request; and (v) adopt new supplementary material to clarify the requirements of the rule’s provisions. The proposed rule change would also make technical amendments to retitle MSRB Rule G–28 as well as certain provisions set forth in the rule for additional clarity. The amendments are addressed below.

Description of Proposed Rule Change Requiring Associated Persons To Obtain Consent From Employer Dealer and To Notify Executing Dealer or Other Financial Institution of Association With Employer Dealer

MSRB Rule G–28 currently requires an executing dealer to give written notice to an employer dealer prior to the opening or maintenance of an account for an associated person of the employer dealer.¹⁴ However, this obligation only attaches to the executing dealer if the executing dealer knows of the association. Under current MSRB Rule G–28, associated persons are not affirmatively obligated to notify executing dealers of their employment status as associated persons of another dealer, although this information is provided to executing dealers pursuant to Rule G–8(a)(xi),¹⁵ on customer account information, requiring the documentation of certain information on customers.¹⁶ The executing dealer has no duty to investigate whether a customer’s spouse is employed by another dealer.¹⁷

¹⁴ See MSRB Rule G–28(a).

¹⁵ Pursuant to MSRB Rule G–8(a)(xi), on customer account information, a dealer must record for each customer, among other things, the customer’s occupation, whether such customer is employed by another dealer, and the name and address of the customer’s employer.

¹⁶ See MSRB Rule G–28(a).

¹⁷ See MSRB Interpretive Letter, *Employer of Customer’s Spouse* (Mar. 6, 1979) (stating that “a municipal securities dealer does not have to inquire of current customers whether their spouses are employed by another municipal securities dealer”).

⁵ See Exchange Act Release No. 15248 (Oct. 19, 1978), 43 FR 50525 (Oct. 30, 1978), File No. SR–MSRB–77–12 (“1978 Approval Order”).

⁶ Exchange Act Release No. 14519 (Mar. 2, 1978), 43 FR 9672, 9672 (Mar. 9, 1978), File No. SR–MSRB–77–12.

⁷ See Exchange Act Release No. 13987 (Sept. 22, 1977), 42 FR 49856, 49863 (Sept. 28, 1977), File No. SR–MSRB–77–12 (“The Board believes that proposed rule G–28 is more likely to assure that an employer is fully informed regarding the trading activities of its employees and partners and that this is necessary to assure that accounts maintained by such persons are not used for illegal or improper purposes.”). See also Exchange Act Release No. 47189 (Jan. 15, 2003), 68 FR 3073, 3073 (Jan. 22, 2003), File No. SR–MSRB–2002–15.

⁸ See generally 1978 Approval Order, 43 FR 50525.

⁹ See Exchange Act Release No. 47395 (Feb. 24, 2003), 68 FR 10559 (Mar. 5, 2003), File No. SR–MSRB–2002–15.

¹⁰ Current section (c) of MSRB Rule G–28, which exempts transactions in and accounts limited to transactions in municipal fund securities from the requirements of sections (a)–(b), aligns with FINRA

FINRA Rule 3210 requires a person associated with a FINRA-member firm (“employer member”) to obtain the prior written consent of the employer member before opening or otherwise establishing an account at a FINRA-member firm other than the employer member (“executing member”) or other financial institution.¹⁸ Before opening or otherwise establishing the account, an associated person must also notify in writing the executing member or other financial institution of the associated person’s association with the employer member.¹⁹

The proposed rule change would require associated persons seeking to open or otherwise establish²⁰ an account in which municipal securities transactions may be effected with an executing dealer or other financial institution to first (i) obtain the written consent of the employer dealer,²¹ and (ii) provide written notification of the individual’s association with the employer dealer to the executing dealer or other financial institution.²² These requirements would help to ensure that both the employer dealer and executing dealer or other financial institution are informed of the nature of the parties’ respective relationships, and would align with corresponding provisions of FINRA Rule 3210 by clarifying that the associated person has the affirmative obligation of informing both parties. Furthermore, by placing the burden of obtaining consent and providing notification upon the associated person, the proposed rule change would resolve any questions of an executing dealer’s obligation to ascertain information beyond the information normally required under MSRB Rule G–8(a)(xi).²³ Of note, like FINRA Rule 3210.02,²⁴ new Supplementary Material .02 would provide that an associated person having a beneficial interest in an account would also be presumed to have established such account, thereby making the opening of such account in

which the associated person has a beneficial interest subject to the notification requirement of proposed MSRB Rule G–28(a)(ii).

Expanding the Application of the Rule to All Associated Persons, to Accounts of Others and to Such Accounts at Other Financial Institutions

The breadth of the requirements of MSRB Rule G–28 would be expanded in three respects, all of which would serve to harmonize MSRB Rule G–28 with FINRA Rule 3210. First, proposed amended MSRB Rule G–28 would apply to accounts of all associated persons, as defined under Section 3(a)(18) of the Exchange Act,²⁵ of the employer dealer, not just to employees and partners of the employer dealer as currently provided.

Second, the current requirements of MSRB Rule G–28 also apply to accounts “for or on behalf of the spouse or minor child of” an employee or partner of the employer dealer.²⁶ FINRA Rule 3210 applies to accounts of persons associated with a member and to accounts “in which the associated person has a beneficial interest,”²⁷ a phrase defined by FINRA Rule 3210.02.²⁸ The proposed rule change would amend MSRB Rule G–28 to replace the current reference to spouse or minor child with FINRA’s formulation relating to the associated person’s beneficial interest.

Third, the current requirement only applies to executing dealers. FINRA Rule 3210 applies not just to accounts at executing members but also to accounts at other financial institutions. The proposed rule change would amend MSRB Rule G–28 to add accounts at financial institutions other than dealers as accounts covered by the rule.

Thus, the proposed rule change would amend the text of MSRB Rule G–28 such that its provisions would apply to an “account of the associated person or account in which the associated person has a beneficial interest.”²⁹ Similar to FINRA Rule 3210.02, new Supplementary Material .02 would provide that an associated person would be presumed to have a beneficial interest in any account held by the following categories of individuals:

- (a) the spouse of the associated person;³⁰

- (b) a child of the associated person or of the associated person’s spouse, provided that the child resides in the same household as or is financially dependent upon the associated person;³¹

- (c) any other related individual over whose account the associated person has control;³² or

- (d) any other individual over whose account the associated person has control and to whose financial support the associated person materially contributes.³³

Such new Supplementary Material .02 would also provide that, regarding accounts held by persons described by category (a) or (b) above, the presumption of a beneficial interest could be rebutted if the associated person is able to demonstrate to the reasonable satisfaction of the employer dealer that the associated person derives no economic benefit from, and exercises no control over such accounts.³⁴ For purposes of category (a) or (b) above, the MSRB would expect that an employer dealer, as a matter of sound supervisory practice, would have policies and procedures in place to make determinations as to accounts subject to Supplementary Material .02, and to document such determinations as appropriate.³⁵ While the proposed rule change provides reasonable flexibility in recognition that there is no one-size-fits-all approach to supervision, employer dealers are reminded that the flexibility being afforded under the proposed rule change does not lessen employer dealers’ supervisory obligation with respect to the activities of their associated persons.

The extension of MSRB Rule G–28 to include accounts at financial institutions other than dealers would be effected by adding references to such financial institutions alongside references to executing dealers in the proposed amendment to section (a) of the rule. The term “other financial institution” would be defined in proposed new Supplementary Material .04, as described below.

The MSRB believes that the proposed rule change, including both the proposed amended rule text to address associated persons’ beneficial interests in personal and other related accounts

¹⁸ FINRA Rule 3210(a).

¹⁹ FINRA Rule 3210(b).

²⁰ The proposed rule change would amend instances of the phrase “open and/or maintain” to “open or establish” to fully harmonize with corresponding provisions of FINRA Rule 3210. New Supplementary Material .01 to MSRB Rule G–28 would address accounts existing prior to a person’s association with a dealer—accounts to be maintained. See *infra* “Clarifying Rule Applicability to Accounts Established Prior to Association with Employer Dealer”.

²¹ Proposed MSRB Rule G–28(a)(i), aligning with FINRA Rule 3210(a).

²² Proposed MSRB Rule G–28(a)(ii), aligning with FINRA Rule 3210(b).

²³ See *supra* note 17.

²⁴ Consistent with FINRA practice, FINRA Rule 3210 Supplementary Material is referenced herein as “FINRA Rule 3210.01–.05”.

²⁵ 15 U.S.C. 78c(a)(18); see also *supra* note 13 (providing much of the definition from Section 3(a)(18) of the Exchange Act).

²⁶ MSRB Rule G–28(a).

²⁷ FINRA Rule 3210(a).

²⁸ See FINRA Rule 3210.02.

²⁹ Proposed MSRB Rule G–28(a)(i), mirroring FINRA Rule 3210(a).

³⁰ Proposed Supplementary Material .02(a), mirroring FINRA Rule 3210.02(a).

³¹ Proposed Supplementary Material .02(b), mirroring FINRA Rule 3210.02(b).

³² Proposed Supplementary Material .02(c), mirroring FINRA Rule 3210.02(c).

³³ Proposed Supplementary Material .02(d), mirroring FINRA Rule 3210.02(d).

³⁴ Proposed Supplementary Material .02, mirroring FINRA Rule 3210.02.

³⁵ This expectation is consistent with FINRA Interpretive Guidance, FAQ Concerning FINRA Rule 3210 (Accounts At Other Broker-Dealers and Financial Institutions), at Question 7, available at <https://www.finra.org/rules-guidance/rulebooks/finra-rules/3210/faq>.

at either executing dealers or other financial institutions, and the accompanying supplementary material outlining such types of accounts and other financial institutions, would ensure that those accounts presenting the greatest risk of abuse or improper activity fall within the scope of MSRB Rule G–28. Furthermore, the MSRB believes that the adoption of provisions that directly correspond to FINRA’s provisions regarding this subject matter would enable dealers to better fulfill their supervisory obligations under both MSRB and FINRA rules.

Requiring Executing Dealer To Provide Customer Confirmations, Account Statements or Transactional Data to Employer Dealer Upon Request

The proposed rule change would amend subsection (b)(i) of MSRB Rule G–28 to further align with FINRA Rule 3210 by eliminating the current requirement for the executing dealer to automatically send duplicate copies of all customer confirmations to the employer dealer, and would instead require duplicate confirmations and account statements or transactional data that would be contained therein to be transmitted only upon the request of the employer dealer.³⁶ The proposed amendments seek to provide greater flexibility to employer dealers in carrying out their supervisory responsibility without mandating a specific mode of surveillance of associated persons’ trading activities for prohibited transactions or other purposes. While the MSRB believes it is appropriate that employer dealers determine for themselves what would constitute timely receipt of information based upon their business model and the risk profile of their activities, it notes that such determination must be reasonable within the context of employer dealers overall supervisory obligations. Additionally, the expansion of the types of information that can be requested—account statements and, in particular, transactional data, which are not currently covered by MSRB Rule G–28—would further facilitate an employer dealer’s in-depth review of the trading activity of its associated persons. The MSRB believes the proposed rule change would therefore enhance employer dealers’ ability to implement policies and procedures for the review and supervision of municipal securities transactions that are reasonably designed to identify violations of applicable MSRB rules and federal securities laws.

Retaining Existing Requirement for Executing Dealers To Follow Written Instructions From Employer Dealers

Current subsection (b)(ii) of MSRB Rule G–28 requires executing dealers to obey written instructions provided by employer dealers with respect to transactions for accounts of associated persons of the employer dealer. Although FINRA Rule 3210 contains no corresponding requirement, the proposed rule change would maintain this existing requirement. The MSRB believes this requirement enhances employer dealers’ ability to ensure compliance with MSRB rules and federal securities laws by providing a means by which employer dealers may proscribe certain transactions or types of transactions that such employer dealers assess to be more likely contrary to the interests of the employer dealer or otherwise illegal or improper with respect to transactions in municipal securities. This requirement, together with any confirmations, account statements, or transactional data requested by and received by the employer dealer pursuant to the proposed amendments to subsection (b)(i) of MSRB Rule G–28, would enable employer dealers, when reviewing the trading activities of their associated persons through accounts held away from the employer dealer, to meet overarching supervisory obligations with regard to compliance with MSRB rules and with applicable federal securities laws and regulations more generally, as provided under sections (a) and (b) of MSRB Rule G–27. This would include supervising such accounts for illegal or improper purposes, a foundational purpose of MSRB Rule G–28.³⁷

Proposed subsections (b)(i) and (ii) of MSRB Rule G–28 on receipt of confirmations and adherence with written instructions, respectively, would apply solely to executing dealers, which are subject to MSRB rules, and would not apply to other financial institutions outside of the MSRB’s regulatory authority.³⁸ Nonetheless, and consistent with proposed new Supplementary Material .03 of MSRB Rule G–28 described below,³⁹ the MSRB would encourage employer dealers to make such requests for confirmations, and account statements, or transactional

data, as appropriate, and provide such written instructions, consistent with these proposed subsections, to any other such financial institutions as the employer dealers deem appropriate. Additionally, such financial institutions would be encouraged to honor such requests, to assist employer dealers to meet their supervisory and compliance obligations.⁴⁰

Clarifying Certain Provisions Through Addition of Supplementary Material

MSRB Rule G–28 does not include supplementary material at present; the proposed rule change would adopt supplementary material to provide additional clarification to certain provisions, as summarized below. The structure and content of the proposed supplementary material largely mirrors the structure of FINRA Rule 3210.

Clarifying Rule Applicability to Accounts Established Prior to Association With Employer Dealer

MSRB Rule G–28 applies both to accounts opened during an individual’s association with an employer dealer, and to accounts opened prior to such association. The proposed rule change would include supplementary material clarifying requirements for maintaining an account established prior to association with a particular employer dealer. Under proposed Supplementary Material .01, an associated person wishing to maintain such an account with an executing dealer or other financial institution would be required, within 30 days of their association with the employer dealer, to (i) obtain the written consent of the employer dealer to maintain the account, and (ii) provide written notification of their association with the employer dealer to the executing dealer or other financial institution.⁴¹

Expanding the Application of the Rule to Accounts of Others

As previously discussed,⁴² proposed Supplementary Material .02 would clarify the meaning of beneficial interest in relation to accounts that are subject to the requirements of MSRB Rule G–28. The proposed rule change would utilize

³⁶ *Id.* (stating: “The proposed supplementary material would require, . . . the employer dealer to consider the extent to which it will be able to obtain [requested information] directly from such financial institution in determining whether to provide its written consent to an associated person to open or maintain such account.”).

⁴¹ Proposed Supplementary Material .01, mirroring FINRA Rule 3210.01.

⁴² See *supra* “Expanding the Application of the Rule to All Associated Persons, to Accounts of Others and to such Accounts at Other Financial Institutions”.

³⁶ See FINRA Rule 3210(c).

³⁷ See *supra* note 7.

³⁸ To note, the stated application of the proposed rule change with respect to copies of confirmations and account statements, or transactional data to only those subject to MSRB rules is consistent with FINRA Rule 3210(c).

³⁹ See *infra* “Clarifying Requirements for Accounts at Financial Institutions Other Than a Dealer”.

language that closely mirrors FINRA Rule 3210.02 to further align compliance obligations under both regulations.

Clarifying Requirements for Accounts at Financial Institutions Other Than a Dealer

The proposed rule change would include new Supplementary Material .03 making clear and directly aligning the requirements relating to accounts of associated persons opened or maintained at financial institutions other than dealers. The proposed supplementary material would require, with respect to an account at a financial institution other than a dealer, the employer dealer to consider the extent to which it will be able to obtain, upon written request, duplicate copies of confirmations and statements, or the transactional data contained therein, directly from such financial institution in determining whether to provide its written consent to an associated person to open or maintain such account.⁴³ Proposed Supplementary Material .04 would provide that the terms “other financial institution” and “financial institution other than a broker, dealer or municipal securities dealer” include, but are not limited to, investment adviser, bank, insurance company, trust company, credit union, investment company and any foreign or other broker-dealer not subject to MSRB rules.⁴⁴

Minor Technical Changes

Finally, the proposed rule change would make a limited number of technical, non-substantive changes to improve organization and clarity. Section (a) of MSRB Rule G–28 would be retitled from “Account Instructions” to “Obligations of Associated Persons”, and section (b) would be retitled from “Account Transactions” to “Obligations of Executing Dealer”. These changes would enhance the organizational scheme and improve clarity by ensuring that the section titles accurately reflect the rule text contained within each section.⁴⁵ Similarly, the proposed rule change would retitle MSRB Rule G–28 from “Transactions with Employees and Partners of Other Municipal Securities Professionals” to “Accounts at Other

Brokers, Dealers, Municipal Securities Dealers and Financial Institutions”. This title promotes clarity by ensuring consistency in terminology between the rule title and rule text.

Operative Date

As previously mentioned, the operative date for the proposed rule change would be September 16, 2026. Until such operative date, dealers would be subject to the existing provisions of MSRB Rule G–28, but may choose to come into compliance with the proposed rule change in its entirety at any time prior to the operative date. The period between the effective date and operative date is designed to provide all dealers with sufficient time to revise their policies and procedures to ensure efficient and effective compliance with the new requirements of the proposed rule change without creating unnecessary burdens or disruption. While FINRA-member dealers should have come into compliance with the comparable policies and procedures under FINRA Rule 3210 in connection with their other securities market activities, they will need time to fully come into compliance, and bank dealers would need time to make the necessary changes under the proposed rule change. If a dealer chooses to come into compliance at an earlier date than the operative date, its compliance policies and procedures should be updated as of the date the dealer actually determines that it will come into compliance with all provisions of the proposed rule change. Dealers are reminded that they are required to maintain a copy of all compliance policies and procedures in effect at any time within the required recordkeeping period, under MSRB Rule G–9, on preservation of records, and that it should be clear when such policies and procedures were in effect.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Exchange Act,⁴⁶ 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.

In accordance with Section 15B(b)(2)(C) of the Exchange Act,⁴⁷ the proposed rule change is designed to prevent fraudulent and manipulative acts and practices. By setting forth the requirements that associated persons would need to seek prior written consent of their employer dealer to open, otherwise establish or maintain accounts, the proposed rule change effectively requires dealers to assess and make such determination of whether they can appropriately oversee the municipal securities trading activities of their associated persons—with such level of required supervision being in furtherance of preventing fraudulent and manipulative acts and practices. For example, in determining whether to provide consent for an account at a financial institution other than a dealer, the employer dealer must consider its ability to obtain sufficient documentation or transactional data from such other financial institution to allow the employer dealer to sufficiently oversee any related municipal securities trading activities.

The MSRB believes that increased harmonization between MSRB Rule G–28 and the corresponding FINRA provisions would provide a practical and balanced way for dealers to continue effectively meeting their core regulatory obligation, as required under MSRB Rule G–27, to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable federal securities laws and regulations and with applicable MSRB rules, which directly serves investor protection.

The proposed rule change promotes just and equitable principles of trade by ensuring all dealers that are FINRA members are, by and large, subject to the same regulatory obligations and resultant compliance obligations under MSRB Rule G–28 and FINRA Rule 3210, by minimizing, when appropriate, differences in the treatment of municipal securities from other asset classes. That is, dealers would be subject to substantially the same regulatory standard under both MSRB and FINRA rules. This regulatory consistency would allow dealers to more efficiently design and implement compliance policies and procedures without the burden or confusion of differing regulatory requirements.

Additionally, the proposed rule change is intended to provide a

⁴³ Proposed Supplementary Material .03, mirroring FINRA Rule 3210.04.

⁴⁴ Proposed Supplementary Material .04, aligning with FINRA Rule 3210.05. Proposed Supplementary Material .04 differs from FINRA Rule 3210.05 in that, unlike FINRA rules, which apply to FINRA-member firms, MSRB rules generally apply to dealers regardless of their registration status or membership with FINRA.

⁴⁵ See proposed MSRB Rule G–28(a)–(b), respectively.

⁴⁶ 15 U.S.C. 78o–4(b)(2)(C).

⁴⁷ *Id.*

practical and balanced way for dealers to continue to effectively meet their core regulatory obligation to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable federal securities laws and regulations, and with applicable MSRB rules. Supporting dealers' compliance with their supervisory obligations would directly serve investors, municipal entities and obligated persons, thereby protecting the public interest. The MSRB believes that the proposed rule change would facilitate transactions in municipal securities and remove impediments to a free and open market by ensuring a consistent regulatory framework across regulators.

Finally, aligning the proposed rule change with amended FINRA Rule 3210, making such requirements specifically applicable to the municipal securities activities of dealers that are FINRA members, avoids regulatory inconsistency, as appropriate, enabling FINRA and the Commission to more efficiently inspect such dealers subject to the rules of both the MSRB and FINRA.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 15B(b)(2)(C) of the Exchange Act requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.⁴⁸ In determining whether the standards have been met, the MSRB was guided by the MSRB's Policy on the Use of Economic Analysis in MSRB Rulemaking.⁴⁹ In accordance with this policy, the MSRB evaluated the potential impacts on competition of the proposed rule change and believes that it would not impose any burden on competition, as the proposed amendments would

harmonize MSRB Rule G-28 with FINRA Rule 3210, and would be applied equally to all dealers.⁵⁰ Therefore, the MSRB believes the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.⁵¹

Currently, MSRB Rule G-28 does not expressly obligate associated persons to notify the executing dealer of their employment status with another dealer. The proposed amendments are intended to shift the responsibility from the executing dealer to the associated person to notify their employer dealer of any account covered by MSRB Rule G-28. The proposed rule change would remove the requirement for executing dealers to automatically transmit copies of confirmations to employer dealers; instead requiring only that confirmations and account statements (or transactional data) be sent by the executing dealer when requested by the employer dealer. The proposed amendments include supplementary materials regarding accounts opened prior to employment, personal and related accounts, accounts at a financial institution other than a dealer, and definition of other financial institutions. The proposed rule change is intended to further align MSRB Rule G-28 with FINRA Rule 3210.

Based on the MSRB's analysis, the potential benefits of the proposed rule change would outweigh the potential costs of the proposed rule change. As mentioned above, dealers would benefit from removing unnecessary inconsistencies between MSRB Rule G-28 and FINRA Rule 3210, since regulatory consistency would add clarity to firms' analyses when determining their obligations according to MSRB and FINRA rules. Specifically, the proposed amendments to MSRB Rule G-28 would clarify the obligations of an associated person and the obligations of the associated person's employer dealer and executing dealer. The MSRB believes that the proposed amendments would provide employer dealers with better awareness and control over potential conflicts of interest that could arise from an associated person having an account with another dealer. In addition, the proposed rule change would reduce the burden on the executing dealer by removing the requirement to automatically transmit copies of confirmations to the employer dealer.

The MSRB acknowledges that dealers would likely incur minor costs as a

result of the proposed rule change, relative to the baseline state (current state). Dealers would be expected to incur one-time, upfront costs related to revising policies and procedures, along with ongoing compliance costs in satisfying the regulatory obligations under the proposed supplementary materials. The MSRB estimates that firms would incur one-time, upfront costs of approximately \$3,839.⁵² While anticipated upfront costs are relatively minor for dealers, the MSRB believes that FINRA-member dealers, who would already be in compliance with FINRA Rule 3210 for other asset classes, other than municipal securities, may have lower upfront costs than the overall estimate (\$3,839) when compared to bank dealers not registered with FINRA. Additionally, the MSRB anticipates some potential ongoing costs associated with dealer-initiated review and potential investigation of municipal securities transactions that may adversely impact the employer dealer. However, the MSRB expects that FINRA-member dealers are already complying with their regulatory obligations to review and investigate securities transactions for other asset classes pursuant to FINRA Rule 3210, and that such dealers are receiving the transaction data as requested. Therefore, the MSRB believes the incremental ongoing costs would be minimal, approximately \$393 annually for one hour of work by a compliance manager for each employee who has an account

⁵² The MSRB estimates three hours for a compliance manager at \$393 per hour ($3 \times \$393 = \$1,179$) to revise the firm policies and procedures, and one hour for in-house compliance counsel to review and edit any changes as needed ($1 \times \$463 = \$463$). The MSRB also anticipates one hour of review by outside legal counsel at \$630 per hour ($1 \times \$630 = \$630$), and review and sign-off by a director of compliance at \$610 per hour for one hour ($1 \times \$610 = \$610$), and the chief compliance officer at \$693 per hour for half an hour ($.5 \times \$693 = \$347$). Lastly, the MSRB anticipates one hour of training and education conducted by the director of compliance at \$610 per hour ($1 \times \$610 = \$610$). Therefore, the total upfront cost estimates would be $\$3,839$ ($\$1,179 + \$463 + \$630 + \$610 + \$347 + \$610 = \$3,839$).

The hourly-rate data is gathered from a variety of Commission filings compiled by the MSRB for usage in economic analysis. The Commission's economic analysis utilizes the Securities Industry and Financial Markets Association's "Management & Professional Earnings in the Securities Industry—2013 Report" for the hourly rates of various financial industry market professionals. To compensate for inflation, the data reflects the 2025 hourly rate level after adjusting for the annual cumulative wage inflation rate of 47.3% between 2013 and 2025. See The Federal Reserve Bank of St. Louis Employment Cost Index: Wages and Salaries: Private Industry Workers, available at <https://fred.stlouisfed.org/series/ECIWAG>. The MSRB estimates the number of hours for each task based on MSRB's consultation with regulated entities' compliance officers for a median-sized firm.

⁴⁸ 15 U.S.C. 78o-4(b)(2)(C).

⁴⁹ See Policy on the Use of Economic Analysis in MSRB Rulemaking, available at <https://www.msrb.org/Policy-Use-Economic-Analysis-MSRB-Rulemaking>. In evaluating whether there was any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act, the MSRB was guided by its principles that required the MSRB to consider costs and benefits of a rule change, its impact on efficiency, capital formation and competition, and the main reasonable alternative regulatory approaches. For those rule changes which the MSRB files for immediate effectiveness under Section 19(b)(3)(A) of the Exchange Act (15 U.S.C. 78s(b)(3)(A)), including information facility rule filings, while not subject to the policy, the MSRB usually focuses its examination exclusively on the burden of competition on regulated entities, but may also include any additional economic analysis that the MSRB believes may inform the rulemaking process based on the facts and circumstances.

⁵⁰ 15 U.S.C. 78o-4(b)(2)(C).

⁵¹ *Id.*

with another dealer. The MSRB also estimates ongoing costs of approximately \$610 for one hour of work by a director of compliance of the employer dealer for each instance of review and approval of an associated person's request to open, otherwise establish or maintain an account with another firm.⁵³

Effect on Competition, Efficiency and Capital Formation

The MSRB believes that the proposed rule change would neither impose a burden on competition nor hinder capital formation, as the proposed amendments are applicable to all dealers and the ongoing costs should be proportional to dealer size, while the upfront costs are relatively minor for dealers. Small dealers have fewer employees, and their costs should be less than larger dealers. The proposed amendments would improve the municipal securities market's operational efficiency and promote regulatory certainty by appropriately shifting the initial burden—to notify and obtain consent—from the executing dealer to the associated person. At present, the MSRB is unable to quantitatively evaluate the magnitude of the efficiency gains or losses but believes the benefits from closely aligning MSRB Rule G–28 with FINRA Rule 3210 would outweigh the upfront costs of revising policies and procedures, as well as the ongoing compliance and recordkeeping costs to dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received on the proposed rule change.⁵⁴

⁵³ In addition, employer dealers potentially face a heightened risk of overlooking associated persons' failure to comply with internal policies and procedures, since executing dealers would no longer be required to provide duplicate transaction confirmations to employer dealers automatically. However, the employer dealers would still have the ability to obtain those confirmations and account statements (or more tailored data) by request from the executing dealer. The employer dealer would also retain the ability to provide the executing dealer with instructions that the executing dealer must follow with respect to transactions effected with or for such account. Therefore, the MSRB believes the proposed rule change mitigates such potential risk by providing employer dealers greater ability to design policies and procedures specific to their own needs.

⁵⁴ Comments received in response to FINRA Rule 3210 amendments can be found at <https://www.sec.gov/comments/sr-finra-2015-029/finra2015029.shtml>.

III. Date of Effectiveness of the Proposed Rule Change and Timing of Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Exchange Act⁵⁵ and Rule 19b–4(f)(6)⁵⁶ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange 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 Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR–MSRB–2026–03 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–MSRB–2026–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the MSRB. 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–MSRB–2026–03 and should be submitted on or before July 21, 2026.

For the Commission, pursuant to delegated authority.⁵⁷

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026–13112 Filed 6–29–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105774; File No. 4–897]

Self-Regulatory Organizations; Texas Stock Exchange LLC; Order Declaring Effective a Minor Rule Violation Plan

June 25, 2026.

On April 21, 2026, Texas Stock Exchange LLC (“TXSE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed minor rule violation plan (“MRVP” or “Plan”) pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19d–1(c)(2) thereunder.² The proposed MRVP was published for comment in the **Federal Register** on May 4, 2026.³ The Commission received no comments on the proposal. This order declares the Exchange's proposed MRVP effective.

The Exchange's MRVP specifies the rule violations that will be included in the Plan and will have sanctions not exceeding \$2,500. Any violations resolved under the MRVP would not be subject to the provisions of Rule 19d–1(c)(1) of the Act,⁴ which requires that a self-regulatory organization (“SRO”) promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.⁵ In accordance with Rule 19d–1(c)(2) under the Act,⁶ the

⁵⁷ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(d)(1).

² 17 CFR 240.19d–1(c)(2).

³ See Securities Exchange Act Release No. 105335 (April 29, 2026), 91 FR 24024 (“Notice”).

⁴ 17 CFR 240.19d–1(c)(1).

⁵ The Commission adopted amendments to paragraph (c) of Rule 19d–1 to allow SROs to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with and declared effective by the Commission is not considered “final” for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

⁶ 17 CFR 240.19d–1(c)(2).

⁵⁵ 15 U.S.C. 78s(b)(3)(A).

⁵⁶ 17 CFR 240.19b–4(f)(6).

Exchange proposed to designate certain specified rule violations as minor rule violations and requested that it be relieved of the prompt reporting requirements regarding such violations, provided it gives notice of such violations to the Commission on a quarterly basis.

The Exchange proposed to include in its MRVP the procedures included in TXSE Rule 8.015 (“Imposition of Fines for Minor Violation(s) of Rules”) and the violations included in TXSE Rule 8.015.01 (“List of Exchange Rule Violations and Recommended Fine Schedule Pursuant to TXSE Rule 8.015”).⁷ According to the Exchange’s proposed MRVP, under TXSE Rule 8.015(a), the Exchange may, in lieu of commencing a disciplinary proceeding as described in TXSE Rules 8.001 through 8.013, impose a fine on any Member (not to exceed \$2,500), associated person of a Member, or registered or non-registered employee of a Member, for any violation of a rule of the Exchange, which violation the Exchange shall have determined is minor in nature, as set forth in TXSE Rule 8.015.01. The Exchange may aggregate similar violations generally if the conduct was unintentional, there was no injury to public investors, or the violations resulted from a single systemic problem or cause that has been corrected. In any action taken by the Exchange pursuant to TXSE Rule 8.015, the person against whom a fine is imposed shall be served with a written statement, signed by an authorized officer of the Exchange, setting forth (i) the rule or rules alleged to have been violated; (ii) the act or omission constituting each such violation; (iii) the fine imposed for each such violation; and (iv) the date by which such determination becomes final and such fine becomes due and payable to the

Exchange. Pursuant to paragraph (c) of TXSE Rule 8.015, if the person against whom a fine is imposed pursuant to TXSE Rule 8.015 pays such fine, that payment shall be deemed to be a waiver of such person’s right to a disciplinary proceeding under TXSE Rules 8.001 through 8.013 and any review of the matter by the Appeals Committee or by the Exchange Board. Any person against whom a fine is imposed pursuant to TXSE Rule 8.015 may contest such a finding pursuant to paragraph (d) of TXSE Rule 8.015 by filing with the Exchange not later than the date by which such determination must be contested (such date to be not less than 15 business days after the date of service of the written statement by the Exchange) a written response meeting the requirements provided in TXSE Rule 8.005 at which point the matter shall become a disciplinary proceeding subject to the provisions of TXSE Rules 8.001 through 8.013.⁸

According to the Exchange, upon the Commission’s declaration of effectiveness of the MRVP, the Exchange will provide to the Commission a quarterly report for any actions taken on minor rule violations under the MRVP.⁹ The quarterly report will include: the Exchange’s internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the fine imposed, the number of times the rule violation occurred, and the date of the disposition.¹⁰

The Exchange requested that the Commission deem any changes to the rules applicable to the Exchange’s MRVP to be deemed modifications to the Exchange’s MRVP.¹¹

The Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act,¹² because the MRVP will permit the Exchange to carry out its oversight and enforcement responsibilities as an SRO more efficiently in cases where formal disciplinary proceedings are not necessary due to the minor nature of the particular violation.

In declaring the Exchange’s MRVP effective, the Commission does not minimize the importance of compliance with Exchange rules and all other rules subject to the imposition of sanctions under Exchange Rule 8.015. Violation of

an SRO’s rules, as well as Commission rules, is a serious matter. However, Exchange Rule 8.015 provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects the Exchange to continue to conduct surveillance and make determinations based on its findings, on a case-by-case basis, regarding whether a violation requires formal disciplinary action or whether a sanction under the MRVP is appropriate.

It is therefore ordered, pursuant to Rule 19d–1(c)(2) under the Act,¹³ that the proposed MRVP for TXSE, File No. 4–897 be, and hereby is, declared effective.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–13114 Filed 6–29–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36227]

Deregistration Under Section 8(f) of the Investment Company Act of 1940

June 26, 2026.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice of Applications for Deregistration under Section 8(f) of the Investment Company Act of 1940.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of June 2026. A copy of each application may be obtained via the Commission’s website by searching for the applicable file number listed below, 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/edgar/search-filings>. You may also call the SEC’s Office of Investor Education and Assistance at (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by emailing the SEC’s Secretary at Secretaries-Office@sec.gov and serving the relevant

⁷ The Exchange received its grant of registration on September 30, 2025, which included approving the rules that govern the Exchange. Under the proposed MRVP, violations of the following rules would be appropriate for disposition under the MRVP: TXSE Rule 4.002 and Interpretations and Policies thereunder (requiring the submission of responses to Exchange requests for trading data within specified time periods); TXSE Rule 11.009(a)(5) (requirement to identify short sale orders as such); TXSE Rule 11.009(f) (requirement to comply with locked and crossed market rules); TXSE Rule 3.005 (relating to communications with the public); TXSE Rule 12.011 Interpretation and Policy .01 and Exchange Act Rule 604 (failure to properly display limit orders); TXSE Rule 4.002 and Interpretations and Policies thereunder (related to the requirement to furnish Exchange-related order, market and transaction data, as well as financial or regulatory records and information); TXSE Rule 11.018(a)(1) (requirement for Market Makers to maintain continuous two-sided quotations); and TXSE Rules 4.005 through 4.015 (failure to comply with the Consolidated Audit Trail compliance rules).

⁸ See Notice, *supra* note 3, at 24024–25.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² 17 CFR 240.19d–1(c)(2).

¹³ *Id.*

¹⁴ 17 CFR 200.30–3(a)(44).

applicant 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 relevant file number.

Hearing requests should be received by the SEC by 5:30 p.m. on July 21, 2026, and should be accompanied by proof of service on 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 writing to the Commission's Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*.

FOR FURTHER INFORMATION CONTACT: Shane Duggan, Assistant Director, at (202) 551–6367 or Chief Counsel's Office at (202) 551–6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE, Washington, DC 20549–8010.

Value Line Core Bond Fund [File Number 811–04471]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 29, 2025, applicant made liquidating distributions to its shareholders based on net asset value. Expenses of \$140,000 incurred in connection with the liquidation were paid by the adviser and the fund, with the adviser paying legal expenses of \$120,000 and the fund paying proxy solicitation fees of \$20,000.

Filing Date: The application was filed on April 23, 2026, and amended on June 12, 2026.

Applicant's Address: 1605 Main Street, Suite 912, Sarasota, Florida 34236.

The Glenmede Portfolios [File Number 811–06578]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 28, 2024, all outstanding shareholders were redeemed prior to liquidation, and no distribution of assets were necessary. Expenses of \$25,897.65 incurred in connection with the liquidation were paid by the applicant's investment advisor.

Filing Date: The application was filed on December 23, 2025, and amended on March 31, 2026.

Applicant's Address: c/o State Street Bank and Trust Company, One Congress Street, Suite 1, Boston, Massachusetts 02114.

AIP Multi-Strategy Fund A [File Number 811–22192]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On May 1, 2020, August 1, 2020, November 1, 2020, March 1, 2021, May 1, 2021, and September 19, 2025, applicant made liquidating distributions to its shareholders based on net asset value. Expenses of \$117,622 incurred in connection with the liquidation were paid by the applicant.

Filing Date: The application was filed on December 9, 2025.

Applicant's Address: c/o 100 Front Street, Suite 400, West Conshohocken, Pennsylvania 19428–2881.

AIP Multi-Strategy Fund P [File Number 811–22193]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On May 1, 2020, August 1, 2020, November 1, 2020, March 1, 2021, May 1, 2021, and September 19, 2025, applicant made liquidating distributions to its shareholders based on net asset value. Expenses of \$60,967 incurred in connection with the liquidation were paid by the applicant. *Filing Date:* The application was filed on December 9, 2025.

Applicant's Address: c/o 100 Front Street, Suite 400, West Conshohocken, Pennsylvania 19428–2881

BIF Money Fund [File No. 811–02752]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 30, 2018, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of \$8,000 incurred in connection with the liquidation were paid by the applicant's investment adviser and its affiliates.

Filing Date: The application was filed on October 16, 2025.

Applicant's Address: BIF Money Fund, 100 Bellevue Parkway, Wilmington, Delaware 19809.

BIF Government Securities Fund [File No. 811–03205]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On July 6, 2016, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of \$8,000

incurred in connection with the liquidation were paid by the applicant's investment adviser and its affiliates.

Filing Date: The application was filed on October 16, 2025.

Applicant's Address: BIF Government Securities Fund, 100 Bellevue Parkway, Wilmington, Delaware 19809.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026–13197 Filed 6–29–26; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the Optional Peg Rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 4.75 percent for the July–September quarter of FY 2026.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any Third Party Lender's commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State.

Daniel J. Pische,

Director, Office of Financial Assistance.

[FR Doc. 2026–13159 Filed 6–29–26; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21652 and #21653; PENNSYLVANIA Disaster Number PA–20030]

Administrative Declaration of a Disaster for the State of Pennsylvania

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of an Administrative declaration of a disaster for the Commonwealth of Pennsylvania dated June 24, 2026.

Incident: Oak Forest Apartment Complex Fire.

DATES: Issued on June 24, 2026.
Incident Period: June 11, 2026.
Physical Loan Application Deadline Date: August 24, 2026.
Economic Injury (EIDL) Loan Application Deadline Date: March 24, 2027.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.
FOR FURTHER INFORMATION CONTACT: Sharon Henderson, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the Administrator's disaster declaration, applications for disaster loans may be submitted online using the MySBA Loan Portal <https://lending.sba.gov> or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at disastercustomerservice@sba.gov or by phone at 1-800-659-2955. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.
The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Berks.
Contiguous Counties:
Pennsylvania: Chester, Lancaster, Lebanon, Lehigh, Montgomery, Schuylkill.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with credit available elsewhere	5.750
Homeowners without Credit Available Elsewhere	2.875
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
<i>For Economic Injury:</i>	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 216525 and for economic injury is 216530.

The commonwealth which received an SBA Administrative declaration is Pennsylvania.
(Catalog of Federal Domestic Assistance Number 59008)
(Authority: 13 CFR 123.3(b).)

James Stallings,
Associate Administrator, Office of Disaster Recovery & Resilience.
[FR Doc. 2026-13157 Filed 6-29-26; 8:45 am]
BILLING CODE 8026-09-P

DEPARTMENT OF STATE

[Public Notice: 13060]
Notice of Charter Renewal of the Advisory Committee on International Postal and Delivery Services (IPODS)

This notice announces the renewal of the charter of the Advisory Committee on International Postal and Delivery Services (IPODS). In accordance with the provisions of the 2006 Postal Accountability and Enhancement Act (Pub. L. 109-435) and the Federal Advisory Committee Act (Pub. L. 92-463), the Committee's charter has been extended until February 3, 2028.

The Department of State uses the IPODS Committee to remain informed of the interests of users and providers of international postal and delivery services. The Assistant Secretary of State for International Organization Affairs appoints members of the Committee, including representatives of the Department of Commerce, the Department of Homeland Security, the Office of the United States Trade Representative, the Postal Regulatory Commission, the Military Postal Service Agency, and the United States Postal Service.

FOR FURTHER INFORMATION CONTACT: Mr. Stuart Smith, Chief, International Postal Affairs and Designated Federal Officer of the Committee, in the Office of Specialized and Technical Affairs (IO/STA), Bureau of International Organization Affairs, U.S. Department of State, at tel. (202) 663-3017; by email at SmithSM7@state.gov or by mail at IO/STA, L409 (SA1); Department of State, 2401 E Street NW; Washington, DC 20037.
Stuart M. Smith,
Designated Federal Officer, Advisory Committee on International Postal and Delivery Services, U.S. Department of State.
[FR Doc. 2026-13141 Filed 6-29-26; 8:45 am]
BILLING CODE 4710-19-P

DEPARTMENT OF STATE

[Public Notice: 13059]
Notice of Public Meeting

As required by the Federal Advisory Committee Act, Public Law 92-463, the Department of State gives notice of a meeting of the Advisory Committee on International Postal and Delivery Services. This Committee will meet in-person on Wednesday, July 29, from 3:00 p.m. to 5:00 p.m. Eastern Time, at a venue to be determined.

Members of the public interested in attending the meeting should contact the Committee's Designated Federal Officer by email by Friday, July 17, 2026, to be placed on the mailing list of recipients for the meeting's address. That contact information is provided in the further information section below.

Members of the public interested in providing input to the meeting should likewise contact the Designated Federal Officer. Individuals wishing to provide oral input are requested to limit their comments to five minutes. Requests to be added to the speakers list must be received in writing (by email) prior to the close of business on Friday, July 17, 2026; written comments from members of the public for distribution at this meeting must reach the Designated Federal Officer by email on this same date. Requests received after that date, including any requests for reasonable accommodation, will be considered but might not be able to be fulfilled.

The agenda of the meeting will include: updates on the outcome of last year's 28th Universal Postal Congress in Dubai, United Arab Emirates; U.S. priorities in international postal policy; and solicitation of Committee member input as work intensifies on proposals for the next UPU Congress in 2029.

FOR FURTHER INFORMATION CONTACT: Please contact the Designated Federal Officer, Mr. Stuart Smith, Chief for International Postal Affairs in the Office of Specialized and Technical Affairs (IO/STA), Bureau of International Organization Affairs, U.S. Department of State, by email at SmithSM7@state.gov.
Authority: 22 U.S.C. 2651a; 5 U.S.C. 1001 *et seq.*; 39 U.S.C. 407.

Stuart M. Smith,
Designated Federal Officer, Advisory Committee on International Postal and Delivery Services, Office of Specialized and Technical Affairs, Bureau of International Organization Affairs, U.S. Department of State.
[FR Doc. 2026-13135 Filed 6-29-26; 8:45 am]
BILLING CODE 4710-19-P

TENNESSEE VALLEY AUTHORITY**Agency Information Collection
Activities: Submission for OMB
Review; Comment Request**

AGENCY: Tennessee Valley Authority (TVA).

ACTION: 30-day notice of submission of information collection approval request to OMB.

SUMMARY: Tennessee Valley Authority (TVA) provides notice of submission of this information clearance request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The general public and other federal agencies are invited to comment. TVA previously published a 60-day notice of the proposed information collection for public review on March 17, 2026 and no comments were received.

DATES: The OMB will consider all written comments received on or before July 30, 2026.

ADDRESSES: Written comments 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.

SUPPLEMENTARY INFORMATION: New collection.

Title of Information Collection: TVA's Generic Clearance for the collection of qualitative feedback on agency service delivery, community engagement, and usability testing.

Frequency of Use: On occasion.

Type of Affected Public: Individuals and Households, Businesses and Organizations, State, Local and Tribal Governments.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 455.

Estimated Number of Annual Responses: 50,000.

Estimated Total Annual Burden Hours: 12,500.

Estimated Average Burden Hours per Response: 0.50

Need For and Use of Information: This information collection will enable TVA to obtain qualitative customer and stakeholder feedback on services and programs, as well as community needs and concerns, in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery and enhancing public engagement. It will

also enable the public to register for public forums, events, and other opportunities, and participate in usability testing of forms, software, and websites designed for customer and stakeholder connections. The qualitative feedback requested provides useful insights on perceptions and opinions, but not statistical surveys that yield quantitative results that can be generalized to the population of study. The feedback and input will provide TVA with insights into customer or stakeholder perceptions, experiences, and expectations; help TVA quickly identify actual or potential problems with how the agency provides services to the public; focus attention on areas where communication, training, or changes in operations might improve TVA's delivery of its products or services; and engage the public on community needs and concerns to guide the direction of new products and services. These collections will allow for ongoing, collaborative, and actionable communication between TVA and its customers and stakeholders. It will also allow feedback and input to contribute directly to the improvement of program management. TVA will solicit feedback and input in areas such as timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, resolution of issues with service delivery, impacts of events, community needs and concerns, and interest in new programs and services. TVA will use the responses to plan and inform its efforts to improve or maintain the quality of service and programs offered to the public and chart the direction of new programs and offerings. TVA will use the registration information for logistical planning for public events, required access control to government property, and connection to service and program offerings; and the usability testing to ensure forms, software, and websites provide simple instructions and easy to navigate directions. If this information is not collected, TVA will not have access to vital feedback and input from customers and stakeholders about the agency's services and programs and the public will not have access to TVA-sponsored events, programs, or services.

TVA will only submit an information collection for approval under this Generic Clearance if it meets the following conditions:

- the collections are voluntary.
- the collections are low burden for respondents (based on considerations of total burden hours, total number of respondents, or burden hours per respondent) and are low-cost for both

the respondents and the Federal Government.

- the collections are non-controversial and do not raise issues of concern to other Federal agencies.
- the collections are targeted for solicitation of feedback and input from respondents who have experience with the program or who may have future experience with the program.
- personally identifiable information (PII) is collected only to the extent necessary and will not be retained beyond immediate need.
- information gathered is intended to be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency (if released, TVA will indicate the qualitative nature of the information).
- information gathered will not be used for the purpose of substantially informing influential policy decisions.
- information gathered will yield qualitative useful information and the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.
- information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature.

Jennifer Wilds,

*Program Manager, Federal Regulations
Information Collection Clearance Officer,
Enterprise Records.*

[FR Doc. 2026–13108 Filed 6–29–26; 8:45 am]

BILLING CODE 8120–08–P

**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

[Docket Number USTR–2026–0298]

**Request for Comments and Notice of
Public Hearing Concerning the Annual
Review of Country Eligibility for
Benefits Under the African Growth and
Opportunity Act for Calendar Year
2027**

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Request for comments and notice of public hearing.

SUMMARY: USTR is announcing the initiation of its 26th annual review of the eligibility of sub-Saharan African countries to receive the benefits of the current African Growth and Opportunity Act (AGOA), if reauthorized, for calendar year 2027. USTR is requesting written comments for this review and will conduct a

public hearing on this matter. In developing its recommendations on AGOA country eligibility for calendar year 2027, USTR, in coordination with the AGOA Implementation Subcommittee of the Trade Policy Staff Committee (AGOA TPSC Subcommittee), will consider written comments, written testimony, and oral testimony.

DATES:

July 13, 2026 at 11:59 p.m. EDT:
Deadline for submission of pre-hearing written comments, requests to testify, and written testimony regarding the eligibility of countries to be designated as beneficiary sub-Saharan African countries.

July 23, 2026 at 10:00 a.m. EDT:
USTR will convene a public hearing to receive oral testimony related to sub-Saharan African countries' eligibility for AGOA benefits, at USTR's offices located at 1724 F Street NW, Washington, DC.

July 30, 2026 at 5:00 p.m. ET:
Deadline for submission of post-hearing written comments, briefs, supplementary materials, and written statements related to the public hearing.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: <https://www.regulations.gov> (*Regulations.gov*). Follow the instructions for submitting written comments and testimony and requests to testify in sections III and IV below, using Docket Number USTR–2026–0298. For alternatives to on-line submissions, please contact Jeremy Streatfeild, Director of African Affairs, Office of African Affairs, in advance of the relevant deadline at Jeremy.E.Streatfeild@ustr.eop.gov or 202.395.8642.

FOR FURTHER INFORMATION CONTACT:
Jeremy Streatfeild, Director of African Affairs, Office of African Affairs, at Jeremy.E.Streatfeild@ustr.eop.gov or 202.395.8642.

SUPPLEMENTARY INFORMATION:

I. Background

AGOA (Title I of the Trade and Development Act of 2000, Pub. L. 106–200) (19 U.S.C. 2466a *et seq.*), as amended, and which currently is set to expire on December 31, 2026, authorizes the President to designate sub-Saharan African countries as beneficiaries eligible for duty-free treatment for certain additional products not included for duty-free treatment under the Generalized System of Preferences (GSP) (Title V of the Trade Act of 1974) (19 U.S.C. 2461 *et seq.*) (1974 Act), as well as for the preferential treatment for

certain textile and apparel articles. The President may designate a country as a beneficiary sub-Saharan African country eligible for AGOA benefits if he determines that the country meets the eligibility criteria set forth in section 104 of AGOA (19 U.S.C. 3703) and section 502 of the 1974 Act (19 U.S.C. 2462).

Section 104 of AGOA includes requirements that the country has established or is making continual progress toward establishing, among other things:

- a market-based economy;
- the rule of law;
- political pluralism;
- the right to due process;
- the elimination of barriers to U.S. trade and investment;
- economic policies to reduce poverty;
- a system to combat corruption and bribery; and
- protection of internationally recognized worker rights.

In addition, the country may not engage in activities that undermine U.S. national security or foreign policy interests or engage in gross violations of internationally recognized human rights. Section 502 of the 1974 Act provides for country eligibility criteria under GSP. For a complete list of the AGOA eligibility criteria and a list of the GSP criteria, see section 104 of the AGOA and section 502 of the 1974 Act.

Section 506A of the 1974 Act requires the President to monitor and annually review the progress of each sub-Saharan African country in meeting the foregoing eligibility criteria in order to determine if a beneficiary sub-Saharan African country should continue to be eligible, and if a sub-Saharan African country that currently is not a beneficiary, should be designated as a beneficiary. If the President determines that a beneficiary sub-Saharan African country is not meeting the eligibility requirements, the President must terminate the designation of the country as a beneficiary sub-Saharan African country. The President also may withdraw, suspend, or limit the application of duty-free treatment with respect to specific articles from a country if the President determines that it would be more effective in promoting compliance with AGOA eligibility requirements than terminating the designation of the country as a beneficiary sub-Saharan African country.

For 2026, the President designated the following 33 countries as beneficiary sub-Saharan African countries:

1. Angola

2. Benin
3. Botswana
4. Cabo Verde
5. Chad
6. Comoros
7. Democratic Republic of Congo
8. Republic of Congo
9. Cote d'Ivoire
10. Djibouti
11. Eswatini
12. Gabon
13. The Gambia
14. Ghana
15. Guinea-Bissau
16. Kenya
17. Lesotho
18. Liberia
19. Madagascar
20. Malawi
21. Mauritania
22. Mauritius
23. Mozambique
24. Namibia
25. Nigeria
26. Rwanda (AGOA apparel benefits suspended effective July 31, 2018)
27. Sao Tome & Principe
28. Senegal
29. Sierra Leone
30. South Africa
31. Tanzania
32. Togo
33. Zambia

The President did not designate the following sub-Saharan African countries as beneficiary sub-Saharan African countries for 2026:

1. Burkina Faso
2. Burundi
3. Cameroon
4. Central African Republic
5. Equatorial Guinea (graduated from GSP)
6. Eritrea
7. Ethiopia
8. Guinea
9. Mali
10. Niger
11. Seychelles (graduated from GSP)
12. Somalia
13. South Sudan
14. Sudan
15. Uganda
16. Zimbabwe

USTR requests written comments with respect to the annual review of sub-Saharan African countries' eligibility for AGOA benefits. The Secretary of Labor may consider comments related to the child labor and forced labor criteria to prepare the U.S. Department of Labor's report on child labor as required under section 504 of the 1974 Act.

II. Hearing Participation

USTR will convene a public hearing to receive oral testimony related to sub-

Saharan African countries' eligibility for AGOA benefits on Thursday, July 23, 2026, beginning at 10:00 a.m. EDT at 1724 F Street NW, Washington DC. To ensure participation, you must submit requests to present oral testimony at the hearing and written testimony before midnight on July 9, 2026, via [Regulations.gov](https://www.regulations.gov), using Docket Number USTR-2026-0298. Instructions for submission are in sections III and IV below. Remarks at the hearing will be limited to no more than five minutes to allow for possible questions from the AGOA TPSC Subcommittee. Because the hearing will be public, testimony should not include any business confidential information (BCI).

USTR requests small businesses (generally defined by the Small Business Administration as firms with fewer than 500 employees) or organizations representing small business members that submit comments to self-identify as such, so that USTR may be aware of issues of particular interest to small businesses.

III. Procedures for Written Submissions

To be assured of consideration, submit your pre-hearing written comments, requests to testify, and written testimony by the July 13, 2026, 11:59 p.m. EDT deadline, and submit post-hearing written comments by the July 30, 2026, 5:00 p.m. EDT deadline. All submission must be in English. USTR strongly encourages submissions via [Regulations.gov](https://www.regulations.gov), using Docket Number USTR-2026-0298.

To make a submission via [Regulations.gov](https://www.regulations.gov), enter Docket Number USTR-2026-0298 in the 'search for' field on the home page and click 'search.' The site will provide a search results page listing all documents associated with this docket. Find a reference to this notice by selecting 'notice' under 'document type' in the 'refine documents results' section on the left side of the screen and click the 'comment' link.

[Regulations.gov](https://www.regulations.gov) allows users to make submissions by filling in a 'type comment' field or by attaching a document using the 'upload file' field. USTR prefers that you provide submissions in an attached document and note 'see attached' in the comment field on the online submission form. USTR prefers submissions in Microsoft Word (.docx) or Adobe Acrobat (.pdf). If you use an application other than those two, please indicate the name of the application in the 'type comment' field.

At the beginning of your submission or on the first page (if an attachment), include the following text: (1) 2027 AGOA Eligibility Review; (2) the

relevant country or countries; and (3) whether the submission is a comment, request to testify, or written testimony. Submissions should not exceed 30 single-spaced, standard letter-size pages in 12-point type, including attachments. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the submission itself. Similarly, to the extent possible, please include any exhibits, annexes or other attachments in the same file as the submission itself, not as separate files. You will receive a tracking number upon completion of the submission procedure at [Regulations.gov](https://www.regulations.gov). The tracking number is confirmation that [Regulations.gov](https://www.regulations.gov) received your submission. Keep the confirmation for your records. USTR is not able to provide technical assistance for [Regulations.gov](https://www.regulations.gov).

For further information on using [Regulations.gov](https://www.regulations.gov), please consult the resources provided on the website by clicking on 'How to Use [Regulations.gov](https://www.regulations.gov)' on the bottom of the home page. USTR may not consider submissions that you do not make in accordance with these instructions.

If you are unable to provide submissions as requested, please contact Jeremy Streatfeild, Director of African Affairs, Office of African Affairs, in advance of the deadline at jeremy.e.streatfeild@ustr.eop.gov or 202.395.8642, to arrange for an alternative method of transmission. USTR will not accept hand-delivered submissions. General information concerning USTR is available at www.ustr.gov.

IV. Business Confidential Information (BCI) Submissions

If you ask USTR to treat information you submit as BCI, you must certify that the information is business confidential and you would not customarily release it to the public. For any comments submitted electronically that contain BCI, the file name of the business confidential version should begin with the characters 'BCI.' You must clearly mark any page containing BCI with 'BUSINESS CONFIDENTIAL' at the top of that page. Filers of submissions containing BCI also must submit a public version of their submission that will be placed in the docket for public inspection. The file name of the public version should begin with the character 'P.'

V. Public Viewing of Review Submissions

USTR will post written submissions in the docket for public inspection,

except properly designated BCI. You can view submissions at [Regulations.gov](https://www.regulations.gov) by entering Docket Number USTR-2026-0298 in the search field on the home page.

Mark DiPlacido,

*Chair of the Trade Policy Staff Committee,
Office of the United States Trade Representative.*

[FR Doc. 2026-13177 Filed 6-29-26; 8:45 am]

BILLING CODE 3390-F4-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2025-1544]

Radar Data Pilot Program

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

ACTION: Notice of Radar Data Pilot Program (RDPP) Solicitation of Participants.

SUMMARY: The Department of Transportation (DOT), Federal Aviation Administration (FAA), announces the opportunity to apply for participation in a Radar Data Pilot Program (RDPP), made available under the FAA Reauthorization Act of 2024 (Pub. L. 118-63), Section 905, *Radar Data Pilot Program*. The RDPP directs the FAA Administrator, in coordination with the Secretary of Defense, and other heads of relevant Federal agencies, to establish a pilot program to make airspace data feeds containing Sensitive Unclassified Information (SUI) and Controlled Unclassified Information (CUI) available to *qualified users* (as determined by the FAA Administrator). Based on these criteria, the FAA has established policy to implement a collaborative process with the U.S. interagency partners to determine qualification of applicants seeking airspace data feeds containing SUI and CUI related to air traffic within the National Airspace System (NAS) to provide and enable Air Traffic Management (ATM) services and Unmanned Aircraft System (UAS) Traffic Management (UTM) services, or to test technologies that may enable or enhance the provision of ATM and UTM services.

DATES: Applicants that wish to be considered for participation in the RDPP should refer to [Sam.gov](https://sam.gov) for information. Applications will open on the [Sam.gov](https://sam.gov) website on June 26, 2026.

ADDRESSES: Interested applicants should refer to the Request for Information (RFI) available at: <https://sam.gov/workspace/contract/opp/>

32b3d2325fd04c2c81042bb9765f5579/view

FOR FURTHER INFORMATION CONTACT: For general program questions, contact Mr. Mario Verrett at: mario.o.verrett@faa.gov, 202–277–3110; or Mr. Dave Heron at: david.m.heron@faa.gov, 202–746–6975.

SUPPLEMENTARY INFORMATION:

A. Program Description

In 2024, Congress directed the FAA to establish a RDPP to enable qualified Non-Federal entities access to radar data feeds for the purpose of enabling ATM and UTM services or testing technologies to enhance these services. As part of this process, the FAA shall continue to consult with representatives of the UAS industry, UAS Test Site entities, and related technical groups to identify an efficient, effective, and secure format and method to provide data under the RDPP.

Access to data feeds will be limited to *qualified users* that demonstrate the requisite *need to know* and *duty to protect* requirements for SUI and CUI as outlined in FAA Order 1600.75, *Protection of Sensitive Unclassified Information* and in accordance with applicable federal laws and regulations. It should be noted that criteria for *need to know* requires meeting a *lawful government purpose*, which includes a demonstration that access to sensitive, unfiltered FAA NAS radar data will benefit the safety and other essential needs of the NAS. Eligible applicants are U.S. State, Local, Tribal or Territorial (SLTT) government entities, comprised of legal U.S. residents, that meet requirements for access to FAA NAS radar data feeds containing SUI and CUI. Selected participants must enter into a legally binding Other Transaction Agreement (OTA) and an Interconnection Security Agreement with the FAA.

Due to cybersecurity requirements, the FAA's NAS Enterprise Security Gateway (NESG) will be utilized to facilitate provisioning of FAA NAS radar data. As such, the data feeds will have no service level agreement regarding data latency or availability, and any provisioning of the data will be constrained to a *best effort* basis. Additionally, due to current infrastructure capacity and personnel resource limitations, the FAA anticipates that the RDPP will be limited to no more than three (3) participants.

Each SLTT entity participant selected for this pilot program that meets the requirements outlined in the RFI, will be provisioned FAA NAS radar data for

a period of time that supports the execution of their Concept of Operations (CONOPs), and at the discretion of the FAA. Each participant will be required to provide a periodic report on the status of their specific efforts involving the use of FAA NAS radar data. This will assist the FAA in formulating the mandatory recurring annual status report concerning the status of the RDPP to the appropriate committees of Congress. This RDPP will sunset on October 1, 2028.

Note: Participation in this pilot program does not alleviate an applicant from compliance with the requirements for operating UAS in the NAS contained in the Code of Federal Regulations (CFR) and the United States Code (U.S.C.).

B. Eligibility, Application, And Qualification Information

Interested applicants should refer to the RFI on sam.gov, available at: <https://sam.gov/workspace/contract/opp/32b3d2325fd04c2c81042bb9765f5579/view>.

Issued in Washington, DC, on June 26, 2026.

Chad E. Wakefield,

Acting Manager, Strategic Operations Group, AJR–22.

[FR Doc. 2026–13211 Filed 6–29–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0148]

Commercial Driver's License: National School Transportation Association Application for Renewal of Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA requests public comment on the National School Transportation Association's (NSTA) application to renew the exemption that permits all commercial driver's license (CDL) applicants seeking a school bus endorsement only to forgo the engine compartment portion of the pre-trip vehicle inspection skills testing requirement, known as the "under-the-hood" testing requirement. Drivers issued a CDL pursuant to the requested exemption are restricted to the intrastate operation of school buses only. FMCSA is required by statute to publish a notice explaining each exemption request. This notice does not indicate what decision

FMCSA will ultimately reach on the request. After reviewing the application, safety analyses, and public comments submitted, FMCSA will grant or deny the exemption.

DATES: Comments must be received on or before July 30, 2026.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2022–0148 by any of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. See the Public Participation and Request for Comments section below for further information.

- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58–213, West Building, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE, W58–213, West Building, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* (202) 493–2251. Each submission must include the Agency name and the docket number (FMCSA–2025–0103) for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the Privacy Act heading below.

Privacy Act: In accordance with 49 U.S.C. 31315(b), DOT solicits comments from the public to better inform its exemption process. DOT posts these comments, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice DOT/ALL–14 FDMS (Federal Docket Management System (FDMS)), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>. The comments are posted without edit and are searchable by the name of the submitter.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; pearlie.robinson@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

A. Submitting Comments

If you submit a comment, please include the docket number for this

notice (FMCSA–2022–0148), indicate the specific section of this document to which the comment applies, and provide a reason for your suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2022-0148/document>, click on this notice, click “Comment,” and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

FMCSA will consider all comments and material received during the comment period. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

B. Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as “PROPIN” to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the notice. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or via email at brian.g.dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this notice.

C. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, insert FMCSA–2022–0148 in the keyword box, select the document tab and choose the document to review. To view comments, click this notice, then click “Browse Comments.” If you do not have access to the internet, you may view the docket by visiting Dockets Operations in the DOT West Building, 1200 New Jersey Avenue SE, W58–213, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations. 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(s) from which the exempted party 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. Applicant’s Request

Current Regulatory Requirements

FMCSA’s CDL regulations in 49 CFR 383.113(a) require that applicants for a CDL possess basic pre-trip vehicle inspection skills for the vehicle class that they operate or expect to operate. Applicants must be able to identify each safety-related part on the test vehicle and explain what needs to be inspected to ensure a safe operating condition of each part.

Applicant’s Request

The NSTA seeks to renew an exemption from the requirement in 49 CFR 383.113(a)(1)(i) which requires CDL applicants to demonstrate familiarity with the engine compartment, the so-called “under-the-hood” requirement. NSTA is a membership organization for school bus contract-operators engaged primarily in transporting students to and from school and school-related activities. Its members range from small family businesses serving one school district, to large corporations operating tens of thousands of buses across multiple States. According to NSTA, private school bus contractors account for 38 percent of the nation’s pupil transportation services and employ more than 250,000 individuals as bus drivers, mechanics, maintenance workers, dispatch, and office workers. School transportation represents the largest form of mass transportation in the United States, and daily almost 25 million K–12 students are transported by an estimated 480,000 yellow school buses. NSTA reported that 15 States are known to have adopted the exemption, and more than 1,290 school bus drivers have obtained their CDL with the existing exemption, providing a school bus driver for approximately 64,500 students.

NSTA requests renewal of the exemption for a five-year period because it has aided in the successful recruitment of school bus drivers who otherwise may not have obtained a CDL. NSTA adds that the exemption channels those interested in driving other types of commercial motor vehicles (CMVs) more directly into those industries, reducing turnover and contributing to stability and continuity of school transportation overall. According to NSTA, the school transportation industry’s CDL training resources are finite and limited, and the exemption helps ensure that the limited resources are used to train school bus drivers, rather than operators who quickly leave school bus driving to drive other kinds of CMVs.

NSTA further believes that the “under-the-hood” requirement remains a significant barrier to entry for potential school bus drivers, who can be intimidated by the engine compartment of a test vehicle, but who are otherwise willing, able, and qualified candidates. A five-year extension of the exemption would also provide State Driver Licensing Agencies that have not adopted the exemption more time to fully understand the positive effects reported by States that have adopted the exemption, and to consider

implementation. In the renewal request, NSTA indicates that the current exemption has had a demonstrably positive impact on student transportation thus far, with no negative impact to safety.

Applicant's Equivalent Level of Safety

NSTA notes that FMCSA previously determined that the "under-the-hood" exemption maintains a level of safety equivalent to existing regulations, a finding which it says remains true. This narrow exemption removes only the engine-compartment portion of the pre-trip inspection for intrastate school bus drivers, while all other CDL requirements and vehicle maintenance obligations remain in effect. Mechanical issues continue to be addressed through carrier maintenance programs, qualified mechanics, dispatch procedures and State/local school bus inspection requirements. NSTA notes that it does not have any documentation or accident reports in its possession showing that operation under the exemption resulted in a lower level of safety or has decreased safety.

NSTA has held multiple waivers or exemptions since 2022. Copies of the initial request for exemption, subsequent renewal requests, and all public comments are available for review in the docket for this notice.

IV. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on NSTA's application for an exemption from the provision in section 383.113(a)(1)(i) which requires CDL applicants to demonstrate familiarity with the engine compartment, the so-called "under-the-hood" requirement. All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the location listed under the Addresses section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026-13186 Filed 6-29-26; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2026-1521]

Hours of Service: Lone Star Haz Mat Response, LLC; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA requests public comment on an application for exemption from Lone Star Haz Mat Response, LLC (Lone Star) to allow its "field response" drivers to exceed the hours of service (HOS) requirements for the purpose of returning to their normal work reporting location or residence following hazardous materials incident response operations. FMCSA is required by statute to publish a notice explaining each exemption request. This notice does not indicate what decision FMCSA will ultimately reach on the request. After reviewing the application, safety analyses, and public comments submitted, FMCSA will grant or deny the exemption.

DATES: Comments must be received on or before July 30, 2026.

ADDRESSES: You may submit comments identified by Docket Number FMCSA-2026-1521 by any of the following methods:

- **Federal eRulemaking Portal:** www.regulations.gov. See the Public Participation and Request for Comments section below for further information.
- **Mail:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58-213, West Building, Washington, DC 20590-0001.
- **Hand Delivery or Courier:** 1200 New Jersey Avenue SE, W58-213, West Building, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- **Fax:** (202) 493-2251. Each submission must include the Agency name and the docket number (FMCSA-2026-1521) for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the Privacy Act heading below.

Privacy Act: In accordance with 49 U.S.C. 31315(b), DOT solicits comments from the public to better inform its exemption process. DOT posts these comments, including any personal information the commenter provides, to

www.regulations.gov, as described in the system of records notice DOT/ALL-14 FDMS (Federal Docket Management System (FDMS)), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>. The comments are posted without edit and are searchable by the name of the submitter.

FOR FURTHER INFORMATION CONTACT: Ms. Bernadette Walker, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; bernadette.walker@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2026-1521), indicate the specific section of this document to which the comment applies, and provide a reason for your suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2026-1521/document>, click on this notice, click "Comment," and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

FMCSA will consider all comments and material received during the comment period. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

B. Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments

responsive to the notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as "PROPIN" to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the notice. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or via email at brian.g.dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this notice.

C. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, insert FMCSA–2026–1521 in the keyword box, select the document tab and choose the document to review. To view comments, click this notice, then click "Browse Comments." If you do not have access to the internet, you may view the docket by visiting Dockets Operations in room W58–213 of the DOT West Building, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely

achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision(s) from which the exempted party 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. Applicant's Request

Current Regulatory Requirements

Under 49 CFR 395.3(a)(1) a property carrying commercial motor vehicle (CMV) driver may not drive without first taking 10 consecutive hours off duty. Under sections 395.3(a)(2) and 395.3(a)(3)(i), the driver may drive no more than a total of 11 hours during a period of 14 consecutive hours after coming on duty following 10 consecutive hours off duty. Under 49 CFR 395.3(a)(3)(ii), driving is not permitted if more than 8 hours of driving time have passed without at least a consecutive 30-minute interruption in driving status. Under 49 CFR 395.3(b)(1), no motor carrier shall permit or require a driver of a property-carrying CMV to drive, nor shall any driver drive a property-carrying CMV, regardless of the number of motor carriers using the driver's services, for any period after having been on duty 60 hours in any period of 7 consecutive days or having been on duty 70 hours in any period of 8 consecutive days (49 CFR 395.3(b)(2)).

Applicant's Request

Lone Star states that it provides hazardous materials incident response, environmental cleanup and related emergency response services under contract with State and Federal agencies, including the Texas Department of Transportation and the Drug Enforcement Administration. These operations are unpredictable in timing and duration, and require immediate deployment at all hours of the day and night. Lone Star states that its drivers are dispatched only when they have sufficient hours available at the time of dispatch. However, due to the unpredictable duration of incident response operations, drivers may exhaust their HOS limits while completing response activities. Lone Star requests relief permitting drivers to exceed HOS limits solely for the

purpose of returning to their normal work reporting location or residence after completion of hazardous materials incidents, environmental cleanup, and emergency response operations. Although Lone Star requested a regulatory "waiver," the substance of the application indicates it is seeking an "exemption" under 49 U.S.C. 31315(b), and FMCSA has therefore treated the application as such.

The applicant further states that the exemption would apply to all Lone Star "field response" personnel.

Applicant's Equivalent Level of Safety

Lone Star states the requested exemption would maintain an equivalent level of safety because the situations requiring its drivers to exceed the HOS limits occur infrequently. Lone Star estimates the requested relief would only be used 4 to 5 times per month. The applicant further states that its drivers are dispatched only when they have not exceeded their HOS limits.

A copy of the Lone Star's application for exemption is available for review in the docket for this notice.

IV. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on Lone Star's application for an exemption from the requirement in 49 CFR part 395 to allow all "field response" commercial vehicle drivers to exceed otherwise applicable HOS requirements specifically for the purpose of returning to their normal work reporting location or residence following hazardous materials incident response operations. All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the location listed under the Addresses section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026–13189 Filed 6–29–26; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****[Docket No. FMCSA–2026–1717]****Hours of Service: Mainline Services, LLC; Application for Exemption****AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).**ACTION:** Notice of application for exemption; request for comments.

SUMMARY: FMCSA requests public comment on Mainline Services, LLC's (Mainline) application for an exemption from certain provisions in the hours-of-service (HOS) regulations. The applicant seeks the exemption for its employees who transport equipment used to clear derailed or disabled trains or debris blocking tracks or railroad rights-of-way when they are responding to unplanned events that affect interstate commerce, service, or the safety of railway operations, including passenger rail operations, and that occur outside of or extend beyond the employee's normal shift. FMCSA is required by statute to publish a notice explaining each exemption request. This notice does not indicate what decision FMCSA will ultimately reach on the request. After reviewing the application, safety analyses, and public comments submitted, FMCSA will grant or deny the exemption.

DATES: Comments must be received on or before July 30, 2026.**ADDRESSES:** You may submit comments identified by Docket Number FMCSA–2026–1717 by any of the following methods:

- **Federal eRulemaking Portal:** www.regulations.gov. See the Public Participation and Request for Comments section below for further information.
- **Mail:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58–213, West Building, Washington, DC 20590–0001.
- **Hand Delivery or Courier:** 1200 New Jersey Avenue SE, W58–213, West Building, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- **Fax:** (202) 493–2251. Each submission must include the Agency name and the docket number (FMCSA–2026–1717) for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the Privacy Act heading below.

Privacy Act: In accordance with 49 U.S.C. 31315(b), DOT solicits comments

from the public to better inform its exemption process. DOT posts these comments, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice DOT/ALL–14 FDMS (Federal Docket Management System (FDMS)), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>. The comments are posted without edit and are searchable by the name of the submitter.

FOR FURTHER INFORMATION CONTACT:

Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; richard.clemente@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:**I. Public Participation and Request for Comments**

FMCSA encourages you to participate by submitting comments and related materials.

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2026–1717), indicate the specific section of this document to which the comment applies, and provide a reason for your suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2026-1717/document>, click on this notice, click “Comment,” and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

FMCSA will consider all comments and material received during the comment period. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

B. Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and

actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as “PROPIN” to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the notice. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or via email at brian.g.dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this notice.

C. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, insert FMCSA–2026–1717 in the keyword box, select the document tab and choose the document to review. To view comments, click this notice, then click “Browse Comments.” If you do not have access to the internet, you may view the docket by visiting Dockets Operations in the DOT West Building, 1200 New Jersey Avenue SE, W58–213, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision(s) from which the exempted party 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. Applicant's Request

Current Regulatory Requirements

Under 49 CFR 395.3(a)(2), drivers of property-carrying commercial motor vehicles (CMVs) are prohibited from driving after a period of 14 consecutive hours after coming on duty following 10 consecutive hours off duty.

Under 49 CFR 395.3(b)(1), such drivers are prohibited from operating a CMV for any period after having been on duty 60 hours in any period of 7 consecutive days if the employing motor carrier does not operate CMVs every day of the week.

Under 49 CFR 395.3(b)(2), such drivers are prohibited from operating a CMV for any period after having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier does not operate CMVs every day of the week.

Applicant's Request

Mainline seeks a five-year exemption from the HOS regulations in 49 CFR part 395, specifically the 14-hour driving "window" and 60/7- and 70/8-hour rules. Mainline states that it is a full-service railroad construction, maintenance-of-way, and emergency response contractor operating seven divisions across the U.S. that provides services including emergency derailment response, railcar dismantling, track construction and maintenance, heavy equipment recovery, disaster response, and rail infrastructure support. Mainline employs 135 drivers who operate and transport equipment designed to clear derailed or disabled trains and remove hazardous materials or other debris. It operates tractor-trailers, rollbacks, pickups, dump trucks, and straight trucks with grapple loaders to transport equipment and restore rail service. The

applicant states that many "unplanned events" occur outside of normal business hours, and its drivers must travel to and work on or alongside railroad rights-of-way, often after having been on duty at their home base.

Mainline states that for purposes of its request, the term "unplanned event" refers to incidents that disrupt or threaten the safe operation of railroad infrastructure and require immediate response including, but not limited to: train derailments; rail failures or dangerous track conditions; track occupancy light incidents; disruptions to electric propulsion systems; bridge strikes involving railroad infrastructure disabled vehicles or equipment on railroad tracks; train collisions; weather-related incidents, including fallen trees, snow events, extreme temperatures, rock or mud slides, and washouts; earthquakes or other natural disasters affecting rail infrastructure; national security incidents affecting railroad operations, and public safety hazards, including blocked grade crossings.

Mainline indicates that occasionally, a Federal or State emergency is in effect pursuant to 49 CFR 390.23, which exempts its drivers from the HOS regulations. In many instances, however, the situation is localized, and a local emergency declaration rarely occurs as many "unplanned events" occur in remote locations where it may not be clear who a railroad should contact to declare an emergency. According to Mainline, the HOS limitations in those situations may delay its drivers in reaching the site of an "unplanned event." Mainline asserts that significant delays in restoring rail service and addressing public safety hazards may occur when drivers cannot travel to the incident location due to the HOS limitations encountered during mobilization.

Applicant's Equivalent Level of Safety

Mainline believes the exemption would not compromise safety, as it maintains comprehensive training and driver awareness programs, safety supervision, and fatigue management policies. Mainline indicated that it has had no serious injuries or fatalities related to vehicle operations and will continue implementing the following safety measures: (1) drivers will receive at least one hour of lead time before mobilizing equipment and beginning travel; (2) drivers travel in convoys with escort vehicles positioned at the front and rear; (3) vehicles are equipped with two-way radios; (4) supervisors conduct radio checks every 30–45 minutes requiring each driver to confirm their status; (5) supervisors train employees

to recognize signs of driver fatigue; and (6) company policy clearly states that drivers are not required to operate a vehicle if they feel fatigued. Mainline further adds that the requested exemption would apply only to the time drivers spend traveling to the job site, that time spent performing rail restoration work would be recorded as on-duty, not driving time, and that those hours would continue to count toward both daily and weekly HOS duty limits. After completing work at an incident site, drivers would also obtain the required rest period before operating a CMV on a public roadway.

A copy of the Mainline's application for exemption is available for review in the docket for this notice.

IV. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on Mainline's application for an exemption from the applicable HOS regulations in 49 CFR part 395. All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the location listed under the Addresses section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026–13190 Filed 6–29–26; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2019–0060]

Notice of Petition for Extension of Waiver of Compliance

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

ACTION: Notice.

SUMMARY: This document provides the public notice that the Southeastern Pennsylvania Transportation Authority (SEPTA) petitioned FRA for an extension of relief from certain regulations concerning daily and after trip tests and periodic tests.

DATES: FRA must receive comments on the petition by August 31, 2026. FRA will consider comments received after that date to the extent practicable.

ADDRESSES:

Comments: Comments related to this docket may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT:

Scott Johnson, Railroad Safety Specialist, FRA Signal, Train Control, and Crossings Division, telephone: 406-210-3608, email: scott.j.johnson@dot.gov.

SUPPLEMENTARY INFORMATION: Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated May 11, 2026, SEPTA petitioned FRA for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 236 (Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances). FRA assigned the petition Docket Number FRA-2019-0060.

SEPTA requests extended relief 1) from 49 CFR 236.586, *Daily or after trip test*, to eliminate the performance of the subject tests and 2) to increase the time between periodic tests from not more than 92 days to not more than 184 days per § 236.588, *Periodic test*. In its petition, SEPTA stated that its ACS64 and Silverliner V EMU locomotives are equipped with microprocessor-based automatic train control and positive train control systems.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate

scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

Communications received by August 31, 2026 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Privacy Act

Anyone can search the electronic form of any written communications and comments received into any of FRA's dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2026-13203 Filed 6-29-26; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2010-0033]

New Jersey Transit's Request To Amend Its Positive Train Control Safety Plan and Positive Train Control System

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

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that, on June 22, 2026, New Jersey Transit (NJT) submitted a request for amendment (RFA) to its FRA-approved Positive Train Control Safety Plan (PTCSP), seeking approval to update its Advanced Civil Speed Enforcement System II (ACSES) positive train control

(PTC) system's main onboard software with a new software release, known as Back-to-Back (also referred to as B2B or Rev 7). As this RFA involves a request for FRA's approval of proposed material modifications to an FRA-certified PTC system, FRA is publishing this notice and inviting public comment on NJT's RFA to its PTCSP.

DATES: FRA will consider comments received by July 20, 2026. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

ADDRESSES:

Comments: Comments may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA-2010-0033. For convenience, all active PTC dockets are hyperlinked on FRA's website at <https://railroads.dot.gov/research-development/program-areas/train-control/ptc/railroads-ptc-dockets>. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information.

FOR FURTHER INFORMATION CONTACT:

Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816-516-7168, email: Gabe.Neal@dot.gov.

SUPPLEMENTARY INFORMATION: In general, title 49 United States Code (U.S.C.) section 20157(h) requires FRA to certify that a host railroad's PTC system complies with title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system, or the associated FRA-approved PTCSP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal or train control system. Accordingly, this notice informs the public that, on June 22, 2026, NJT submitted an RFA to its PTCSP for its ACSES PTC system, which seeks FRA's approval for an ACSES main onboard software update to Rev 7, in order to address safety-

related issues in the ACSES main onboard. That RFA is available in Docket No. FRA–2010–0033.

Interested parties are invited to comment on NJT's RFA to its PTCSP by submitting written comments or data. During FRA's review of NJT's RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. *See* 49 CFR 236.1021; *see also* 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA to its PTCSP at FRA's sole discretion.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to <https://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. *See* <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov. To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

Carolyn R. Hayward-Williams,

Director, Office of Railroad Systems and Technology.

[FR Doc. 2026–13184 Filed 6–29–26; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2009–0120]

Notice of Petition for Extension of Waiver of Compliance

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

ACTION: Notice.

SUMMARY: This document provides the public notice that CSX Transportation, Inc. (CSXT) petitioned FRA for an extension of relief from certain regulations concerning periodic testing

requirements on vital microprocessor-based signal systems.

DATES: FRA must receive comments on the petition by August 31, 2026. FRA will consider comments received after that date to the extent practicable.

ADDRESSES:

Comments: Comments related to this docket may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT:

Scott Johnson, Railroad Safety Specialist, FRA Signal, Train Control, and Crossings Division, telephone: 406–657–6642, email: scott.j.johnson@dot.gov.

SUPPLEMENTARY INFORMATION: Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated June 1, 2026, CSXT petitioned FRA for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 236 (Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances). The relevant Docket Number is FRA–2009–0120.

Specifically, CSXT seeks an extension of relief from the 2-year periodic testing requirements in §§ 236.377, *Approach locking*; 236.378, *Time locking*; 236.379, *Route locking*; 236.380, *Indication locking*; and 236.381, *Traffic locking*, related to vital microprocessor-based systems. The existing relief extends the testing requirements in these sections from “at least once every 2 years” to every 4 years, after initial testing is completed. In its petition, CSXT stated that during the waiver period, it “has continued to meet all conditions associated with the original approval[,] while maintaining safe and reliable operations.”

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

Communications received by August 31, 2026 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Privacy Act

Anyone can search the electronic form of any written communications and comments received into any of FRA's dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. *See also* <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2026–13209 Filed 6–29–26; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2009–0116]

Notice of Petition for Extension of Waiver of Compliance

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

ACTION: Notice.

SUMMARY: This document provides the public notice that Union Pacific Railroad Company (UP) petitioned FRA for an extension of relief from certain

regulations concerning periodic testing requirements on vital microprocessor-based signal systems.

DATES: FRA must receive comments on the petition by August 31, 2026. FRA will consider comments received after that date to the extent practicable.

ADDRESSES:

Comments: Comments related to this docket may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT:

Scott Johnson, Railroad Safety Specialist, FRA Signal, Train Control, and Crossings Division, telephone: 406-657-6642, email: scott.j.johnson@dot.gov.

SUPPLEMENTARY INFORMATION: Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated May 8, 2026, UP petitioned FRA for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 236 (Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances). The relevant Docket Number is FRA-2009-0116.

Specifically, UP seeks an extension of relief from the 2-year periodic testing requirements in §§ 236.377, *Approach locking*; 236.378, *Time locking*; 236.379, *Route locking*; 236.380, *Indication locking*; and 236.381, *Traffic locking*, related to vital microprocessor-based systems. The existing relief extends the testing requirements in these sections from “at least once every 2 years” to every 4 years, after initial testing is completed. In its petition, UP states that “[e]liminating test redundancies improves safety by limiting disruption to signal circuits and train operations and reducing potential employee

exposures and instances of track fouling.”

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

Communications received by August 31, 2026 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Privacy Act

Anyone can search the electronic form of any written communications and comments received into any of FRA’s dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2026-13202 Filed 6-29-26; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2011-0071]

Notice of Petition for Extension of Waiver of Compliance

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

ACTION: Notice.

SUMMARY: This document provides the public notice that Canadian National

Railway Company (CN) petitioned FRA for an extension of relief from certain regulations concerning periodic testing requirements on vital microprocessor-based signal systems.

DATES: FRA must receive comments on the petition by August 31, 2026. FRA will consider comments received after that date to the extent practicable.

ADDRESSES:

Comments: Comments related to this docket may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT:

Scott Johnson, Railroad Safety Specialist, FRA Signal, Train Control, and Crossings Division, telephone: 406-657-6642, email: scott.j.johnson@dot.gov.

SUPPLEMENTARY INFORMATION: Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated May 13, 2026, CN petitioned FRA for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 236 (Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances). The relevant Docket Number is FRA-2011-0071.

Specifically, CN seeks an extension of relief from the 2-year periodic testing requirements in §§ 236.377, *Approach locking*; 236.378, *Time locking*; 236.379, *Route locking*; 236.380, *Indication locking*; and 236.381, *Traffic locking*, related to vital microprocessor-based systems. The existing relief extends the testing requirements in these sections from “at least once every 2 years” to every 4 years, after initial testing is completed. In its petition, CN stated that “[t]here have been no safety incidents resulting from the waiver and no false clears as a result of modified testing.”

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

Communications received by August 31, 2026 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Privacy Act

Anyone can search the electronic form of any written communications and comments received into any of FRA's dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

[FR Doc. 2026-13210 Filed 6-29-26; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2026-0133]

Notice of Proposed Buy America Waiver for North County Transit District DMU Replacement Parts and Request for Comment

AGENCY: Federal Transit Administration, Department of Transportation.

ACTION: Notice; request for comment.

SUMMARY: The Federal Transit Administration (FTA) received a request from the North County Transit District

(NCTD) for a Buy America nonavailability waiver for the procurement of certain replacement parts for 12 Siemens Desiro-series Diesel Multiple Unit (DMU) vehicles. FTA is providing notice of the nonavailability waiver request and seeks public comment before deciding whether to grant the request. If granted, the waiver would apply to the replacement parts identified in the waiver request for the 12 DMU vehicles only.

DATES: Comments must be received by July 15, 2026. Late-filed comments will be considered only to the extent practicable.

ADDRESSES: Please submit all comments electronically to the Federal eRulemaking Portal. Go to <https://www.regulations.gov> and follow the instructions for submitting comments. All comments must refer to the Federal Transit Administration and docket number FTA-2026-0133. Note that all submissions received, including any personal information provided, will be posted without change and will be available to the public. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477), or at <https://www.transportation.gov/privacy>.

FOR FURTHER INFORMATION CONTACT: Jaamal Jennings, FTA Attorney-Advisor, at Jaamal.Jennings@dot.gov.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to seek public comment on whether the FTA should grant a nonavailability waiver to NCTD for the procurement of certain replacement parts for 12 DMU vehicles used for NCTD's Sprinter light rail service.

Background

With certain exceptions, FTA's Buy America statute prohibits FTA from obligating funds for a project unless "the steel, iron, and manufactured goods used in the project are produced in the United States." 49 U.S.C. 5323(j)(1).

FTA may waive Buy America requirements for a product if, among other reasons, a compliant version of an item is not produced in a sufficient and reasonably available amount or is not of a satisfactory quality. 49 U.S.C. 5323(j)(2)(B). FTA cannot deny a request for a waiver unless it can provide the waiver requester with a written certification that (1) the item is produced in the United States in a sufficient and reasonably available amount; (2) the item produced in the United States is of a satisfactory quality; and (3) includes a list of known manufacturers in the United States from

which the item can be obtained. 49 U.S.C. 5323(j)(6)(A).

NCTD is the owner and operator of the Sprinter light rail service, which runs 22 miles from Oceanside to Escondido in San Diego County with 15 passenger stations. The fleet consists of 12 Siemens Desiro-series DMUs procured in 2003 pursuant to a previous Buy America waiver. On April 10, 2025, NCTD issued a solicitation for the replacement parts with technical specifications included in the Request for Proposals (RFP). A single bidder responded, representing it could attain Buy America compliance for 12 of the parts specified in the RFP and noncompliance for 15 other parts. Following the RFP, NCTD submitted a supplier scouting opportunity (scouting number 2025-368) through the National Institute of Standards and Technology Manufacturing Extension Partnership (NIST-MEP) in compliance with Section 70916(c) of the Build America, Buy America Act (Pub. L. 117-58, November 15, 2021). NIST-MEP identified no manufacturer matches for the opportunity. NCTD estimates the total cost of goods subject to this proposed waiver, including parts, technical support, and materials management, to be approximately \$2.8 million per year. All replacement parts must be compatible with the 2003 Siemens Desiro-series DMUs.

FTA previously waived the Buy America requirements for certain replacement parts for the DMU vehicles in 2016. 81 FR 89570 (Dec. 12, 2016).

Proposed Waiver

FTA proposes waiving Buy America requirements for the following parts identified as noncompliant with the Buy America requirements but that are necessary to keep NCTD's DMUs in a state of good repair:¹

1. Power Truck Assembly (A End)
2. Power Truck Assembly (B End)
3. Jakobs Truck Assembly
4. Transmission
5. A/C Compressors
6. Passenger Bellows
7. Passenger Information System
8. Passenger Door System
9. Threshold, Sliding Step
10. Windows
11. Axle Journal Bearings

¹ For technical specifications of the parts as described in the RFP, see North County Transit District, Diesel Multiple Unit (DMU) Replacement Parts solicitation, PlanetBids Vendor Portal: Bid Opportunity Detail, <https://vendors.planetbids.com/portal/20134/bo/bo-detail/128254>; and Solicitation Documents (Apr. 10, 2025), <https://files-prod01.planetbids.com/NCTD/BMfiles/20250410124242017%2035747-04-06-Solicitation%20Documents.pdf>.

12. Brake System
13. Brake Pads
14. SIBUS 32
15. Destination Displays

The parts listed must be OEM-compliant. The waiver would apply only to the parts described above that are procured after a notice of final waiver is published. The waiver would not apply to any other products or any other projects. Any new railcars procured for NCTD's Sprinter light rail service must comply with Buy America requirements.

Request for Comment

This notice satisfies FTA's requirement to publish any proposed Buy America waiver in the **Federal Register** and provide the public with a reasonable period for notice and comment. 49 U.S.C. 5323(j)(3). FTA also

has submitted the proposed waiver to the Made in America Office at the Office of Management and Budget for publication, consistent with the requirements of Section 70914(c)(1) of the Build America, Buy America Act.

FTA seeks public and industry comment from all interested parties. In particular, FTA seeks comment regarding whether the waiver should be approved, and, if so, whether it should be modified from FTA's proposal and why. Relevant information and comments will help FTA completely understand the facts surrounding the waiver request and FTA's proposal.

Jamie D. Pfister,

Acting Executive Director.

[FR Doc. 2026-13165 Filed 6-29-26; 8:45 am]

BILLING CODE 4910-57-P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Funding Opportunities: Small Dollar Loan Program: FY 2026 Funding Round

Funding Opportunity Title: Notice of Funds Availability (NOFA) inviting Applications for the Fiscal Year (FY) 2026 Funding Round of the Small Dollar Loan Program (SDL Program).

Announcement Type: Notice of Funds Availability.

Funding Opportunity Number: CDFI-2026-SDL.

Catalog of Federal Domestic Assistance (CFDA) Number: 21.025.

TABLE 1—FY 2026 SDL PROGRAM FUNDING ROUND ANTICIPATED CATEGORY AMOUNTS

Funding categories	Estimated total amount to be awarded FY 2026 ²	FY 2026 award amount ¹		Estimated number of awards FY 2026	Estimated average amount to be awarded FY 2026	Average amount awarded in FY 2024
		Minimum	Maximum			
Loan Loss Reserves	\$200,000	\$20,000	\$350,000 ³	1	\$200,000	\$201,192
Technical Assistance	230,000	20,000	150,000	2	115,000	114,967
Combination of Loan Loss Reserves (LLR) and Technical Assistance (TA).	.....	.....	(LLR) Up to \$350,000 ³ .....	.....	.....	.....
	8,570,000	40,000	(TA) Up to \$150,000	63	136,000	278,871
Total	\$9,000,000	.....	.....	66	.....	.....

TABLE 2—FY 2026 SDL PROGRAM FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time (Eastern Time—ET)	Submission method
Last day to create an Awards Management Information System (AMIS) Account if Applicant does not have one (all Applicants).	07 23, 2026	11:59 p.m. ET	Web via AMIS at: https://amis.cdfifund.gov .
Last day to enter or update the Employer Identification Number (EIN) and Unique Entity Identifier (UEI) numbers in AMIS (all Applicants).	07 23, 2026	11:59 p.m. ET	Web via AMIS.
Last day to submit SF-424 Mandatory Form (Application for Federal Assistance) in <i>Grants.gov</i> (all Applicants).	07 23, 2026	11:59 p.m. ET	Web via <i>Grants.gov</i> at: https://www.grants.gov .
Last day to contact SDL Program staff with questions about the Application.	07 28, 2026	5:00 p.m. ET	Submit Service Request via AMIS using “Small Dollar Loan Program” for the Program; call CDFI Fund Helpdesk: 202-653-0421; or email SDLP@cdfi.treas.gov .
Last day to contact Office of Compliance Monitoring and Evaluation (OCME) Help Desk with questions about Compliance.	07 28, 2026	5:00 p.m. ET	Submit Service Request via AMIS using “Compliance and Reporting” for the Program; call OCME Helpdesk: 202-653-0423; or email CCME@cdfi.treas.gov .

¹ The CDFI Fund has the discretion to award more or less than the estimated total amount to be awarded. The CDFI Fund reserves the right to fund, in whole or in part, any, all, or none of the Applications submitted in response to this NOFA.

² Funds for the FY 2026 Funding Round are based on FY 2025 appropriations (Full-Year Continuing

Appropriations and Extensions Act, 2025 (Pub. L. 119-4)).

³ Calculated up to 20% of the Applicant's 3-year projected total on-balance sheet small dollar consumer loans closed.

TABLE 2—FY 2026 SDL PROGRAM FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS—Continued

Description	Deadline	Time (Eastern Time— ET)	Submission method
Last day to contact Office of Certification Policy and Evaluation (OCPE) Help Desk with questions about CDFI Certification.	07 28, 2026	5:00 p.m. ET	Submit Service Request via AMIS using “Certification” for the Program; call OCPE Helpdesk: 202–653–0423; or email OCPECert@cdfi.treas.gov .
Last day to contact AMIS–IT Help Desk (regarding AMIS technical problems only).	07 30, 2026	5:00 p.m. ET	Submit Service Request via AMIS using “Technical Issues” for the Program; call AMIS Helpdesk: 202–653–0422; or email AMIS@cdfi.treas.gov .
Last day to submit SDL Program Application and Required Attachments.	07 30, 2026	11:59 p.m. ET	Web via AMIS.

Executive Summary: The CDFI Fund expands access to capital and related technical assistance across the United States through investment in and assistance to Community Development Financial Institutions (CDFIs). The Small Dollar Loan Program (SDL Program) is administered by the Community Development Financial Institutions Fund (CDFI Fund). Through the SDL Program, the CDFI Fund provides (1) grants for Loan Loss Reserves (LLR) to enable a Certified Community Development Financial Institution (CDFI) to establish a loan loss reserve fund to cover the losses on small dollar consumer loans associated with starting a new small dollar consumer loan program or expanding an existing small dollar consumer loan

program; and (2) grants for Technical Assistance (TA) for technology, staff support, and other eligible activities to enable a Certified CDFI to establish and maintain a small dollar consumer loan program. Through the SDL Program Awards, Recipients will serve rural and urban communities across the nation that lack access to affordable consumer lending products. All awards provided through this Notice of Funds Availability (NOFA) are subject to funding availability.

I. Agency Contact Information

A. Availability: The CDFI Fund will respond to questions and provide support concerning this NOFA and the Application between the hours of 9:00 a.m. and 5:00 p.m. ET, starting on the

date of the publication of this NOFA until the close of business on the second business day preceding the Application deadline. CDFI Fund IT support will be available until 5:00 p.m. ET on date of the Application deadline. The CDFI Fund will not respond to questions or provide support concerning Applications that are received after the stated deadlines in Table 2. Questions or issues with registration in *SAM.gov* (<https://www.sam.gov>) or registration or submission of the SF–424 in *Grants.gov* (<https://www.grants.gov>) must be directed to the *SAM.gov* and *Grants.gov* help desks as the CDFI Fund does not manage those systems. The following table lists contact information for the CDFI Fund, *Grants.gov* and *SAM.gov*:

TABLE 3—CONTACT INFORMATION

Type of question	Preferred method	Telephone number (not toll free)	Email addresses
SDL Program	Submit a Service Request in AMIS	(202) 653–0421	SDLP@cdfi.treas.gov .
Compliance Monitoring and Evaluation ...	Submit a Service Request in AMIS	(202) 653–0423	CCME@cdfi.treas.gov .
CDFI Certification	Submit a Service Request in AMIS	(202) 653–0423	OCPECert@cdfi.treas.gov .
AMIS–IT Help Desk	Submit a Service Request in AMIS	(202) 653–0422	AMIS@cdfi.treas.gov .
<i>Grants.gov</i> Help Desk	N/A	(800) 518–4726	support@grants.gov .
<i>SAM.gov</i> (Federal Service Desk)	N/A	(866) 606–8220	https://sam.gov/ .

The CDFI Fund’s preferred method of contact is an AMIS Service Request. For a SDL Program Application question, select “SDL Program” for the program in AMIS. For a CDFI Certification question, select “Certification.” For a Compliance question, select “Compliance & Reporting.” For Information Technology, select “Technical Issues.” Failure to select the appropriate program for the Service Request could result in delays in responding to your question.

B. Reasonable Accommodations: Requests for those with visual, auditory, or mobility impairments that prevent them from using the CDFI Fund’s website, or who require reasonable accommodation under section 504 of the Rehabilitation Act, should contact 504support@cdfi.treas.gov or 202–653–0326 (this is not a toll-free number) as early as possible, but no later than one week in advance of the Application deadline.

C. Communication with the CDFI Fund: The CDFI Fund will use AMIS to communicate with Applicants and Award Recipients under this NOFA. Award Recipients must also use AMIS to submit required reports. The CDFI Fund will notify Award Recipients by email using the addresses maintained in each Award Recipient’s AMIS account.

Therefore, an Award Recipient and any Subsidiaries, signatories, and Affiliates must maintain accurate contact information (including contact

person and Authorized Representative, email addresses, fax numbers, phone numbers, and office addresses) in their AMIS account(s). To help ensure important notifications from the CDFI Fund are not missed, Applicants and Award Recipients should make sure that their email service is not marking communications from *AMIS@cdfi.treas.gov*, *replyd@cdfi.treas.gov*, or *OCREReviews@treasury.gov* as “junk” or “spam.” For more information about

AMIS please see the Help documents posted at <https://amis.cdfifund.gov/Training>.

II. Eligibility

A. Eligible Applicants: For purposes of the Application, the term “Applicant” refers to an organization applying on its own as a Certified CDFI or refers to the designated lead Certified CDFI applying on behalf of a partnership. Eligible Applicants may

submit only one SDL Program Application and will need to determine if they are applying for an LLR grant, a TA grant, or both. The Applicant must use the SDL Program Award to establish or maintain a small dollar consumer loan program. In the case of a partnership, the designated lead Certified CDFI must use the SDL Program Award to establish or maintain a small dollar consumer loan program.

TABLE 4—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS

Applicant	An Applicant must be duly organized as a legal entity (within the United States or its territories). Must be a Certified CDFI as set forth in 12 CFR 1805.201 and the CDFI Fund has officially notified the entity that it meets all CDFI Certification requirements as of the publication date of this NOFA. Only the entity that will carry out the proposed award activities may apply for an award (other than Depository Institution Holding Companies (DIHC)—see below). The Applicant must provide all required information as directed in the Application Instructions. The financial information in the Application (including any uploaded attachments) should only reflect the activities of the entity that will carry out the proposed award activities. Do not include financial or portfolio information from parent companies, Affiliates, or Subsidiaries in the Application. Also, do not include financial or portfolio information from partner entities if the Applicant is applying as a partnership. An Applicant that applies on behalf of another organization will be rejected without further consideration (other than Depository Institution Holding Companies (DIHC)—see below).
FIDI ⁴ Partner	Is not required to be a Certified CDFI. Must have a primary mission to serve targeted Investment Areas.⁵
Employer Identification Number (EIN).	Applicants must have a unique EIN assigned by the Internal Revenue Service (IRS). For further EIN requirements, see Section V.
System for Award Management (SAM) and Unique Entity Identifier (UEI).	Applicants must have an active <i>SAM.gov</i> account (https://www.sam.gov). Applicants that have an active SAM registration have been assigned a Unique Entity Identifier (UEI). For further SAM and UEI requirements, see Section V.
Grants.gov Account	Applicants must have an active <i>Grants.gov</i> account (https://www.grants.gov) and submit the SF–424 through <i>Grants.gov</i> . For further <i>Grants.gov</i> information and the SF–424 submission requirements, see Section V.
Awards Management Information System (AMIS) Account.	Each Applicant must register as an organization in the CDFI Fund's Awards Management Information System (AMIS) and submit all required Application materials through the AMIS portal (https://amis.cdfifund.gov). For further AMIS account and Application submission requirements, see Section V. In the case where a Certified CDFI Depository Institution Holding Company Applicant intends to carry out the activities of an award through its Certified CDFI Subsidiary Insured Depository Institution, both the Certified CDFI Depository Institution Holding Company Applicant and the Certified CDFI Subsidiary Insured Depository Institution must be registered in AMIS.
501(c)(4) status	Pursuant to 2 U.S.C. 1611, any 501(c)(4) organization that engages in lobbying activities is not eligible to receive an award under this NOFA.
Compliance with Other Statutes, Regulations, and Executive Orders.	An Applicant⁶ may not be eligible to receive an Award if proceedings have been instituted against it in, by, or before any court, governmental agency, or administrative body, and a final determination was made within the time period beginning three years prior to the publication of this NOFA through the execution of the Award Agreement, declaring that the Applicant violated any laws or regulations, including, but not limited, to Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d <i>et seq.</i>); the Fair Housing Act (42 U.S.C. 3601 <i>et seq.</i>); the Equal Credit Opportunity Act (15 U.S.C. 1691 <i>et seq.</i>); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107); and Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 <i>et seq.</i>); and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as described in the Executive Order titled, “Ending Taxpayer Subsidization of Open Borders.” In addition, an Applicant⁶ must be compliant with Federal Civil Rights requirements to be eligible to receive an Award from the CDFI Fund. The CDFI Fund will consider an Application submitted by an Applicant that may have pending Title VI noncompliance issues; however, until the CDFI Fund makes a final determination that the Applicant is Title VI compliant, it may not enter into an Assistance Agreement.

⁴ A “federally insured depository institution” is any insured depository institution as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) and any insured credit union as that term is defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

⁵ 12 U.S.C. 4702(16), Investment Area—The term “investment area” means a geographic area (or areas) including an Indian reservation that—(A)(i) meets objective criteria of economic distress developed by the Fund, which may include the

percentage of low-income families or the extent of poverty, the rate of unemployment or underemployment, rural population outmigration, lag in population growth, and extent of blight and disinvestment; and (ii) has significant unmet needs for loans or equity investments; or (B) encompasses or is located in an empowerment zone or enterprise community designated under section 1391 of the Internal Revenue Code of 1986.

⁶ This requirement also applies to Applicants’ prospective sub-recipients that are not direct

beneficiaries of federal financial assistance (e.g., Depository Institutions Holding Company and their Subsidiary Depository Institutions).

⁷ Depository Institution Holding Company refers to a Bank Holding Company or a Savings and Loan Holding Company.

⁸ Regulated Institutions include Insured Credit Unions, Insured Depository Institutions, State-Insured Credit Unions and Depository Institution Holding Companies.

TABLE 4—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS—Continued

Depository Institution Holding Company ⁷ Applicant.	In the case where a Certified CDFI Depository Institution Holding Company Applicant intends to carry out the activities of an Award through its Certified CDFI Subsidiary Insured Depository Institution, the Application must be submitted by the Certified CDFI Depository Institution Holding Company and reflect the activities and financial performance of the Certified CDFI Subsidiary Insured Depository Institution. If a Depository Institution Holding Company and its Certified CDFI Subsidiary Insured Depository Institution (through which it will carry out the activities of the award) both apply for an award under this NOFA, only the Depository Institution Holding Company will receive an Award, not both. In such instances, the Certified CDFI Subsidiary Insured Depository Institution will be deemed ineligible. Authorized Representatives of both the Depository Institution Holding Company and the Certified CDFI Subsidiary Insured Depository Institution must certify that the information included in the Application represents that of the Certified CDFI Subsidiary Insured Depository Institution, and that the Award funds will be used to support the Certified CDFI Subsidiary Insured Depository Institution for the eligible activities outlined in the Application.
Regulated Institutions ⁸	To be eligible for an Award, each Regulated Institution Applicant must have a CAMELS/CAMEL composite rating (rating for banks and credit unions, respectively), by its Federal regulator of at least “3” or state regulator equivalent. Applicants with CAMELS/CAMEL composite ratings of “4” or “5” will not be eligible for an Award. Bank Applicants must have a Community Reinvestment Act (CRA) rating of at least “Satisfactory” to be eligible for an Award. The CDFI Fund will also evaluate material concerns identified by the Appropriate Federal Banking Agency or Appropriate State Agency in determining eligibility of Regulated Institution Applicants.
Use of Award	All Awards made through this NOFA must be used to support the Applicant’s activities in at least one of the Eligible Activity Categories, see Section III.F. With the exception of Depository Institution Holding Company Applicants, Awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund’s prior written consent. The Recipient of any Award made through this NOFA must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 and section 2 CFR 200.216 of the Uniform Requirements, with respect to any Direct Costs. For Applicants applying as a partnership, only the Designated Lead Certified CDFI may use the Award to carry out the activities of the Award. SDL Program Recipients must meet certain performance goals which will require the Recipient to expend the SDL Program Award on eligible activities and close small dollar consumer loans. The Period of Performance for each SDL Program Award begins with the date that the CDFI Fund announces the Recipients of the FY 2026 SDL Program Awards and includes a Recipient’s three full consecutive fiscal years after the date of the Award announcement, during which time the Recipient must meet the performance goals set forth in the Assistance Agreement. The Budget Period for an SDL Program Award is the same as the Period of Performance.
Pending resolution of noncompliance or default.	If an Applicant (or Affiliate of an Applicant identified in AMIS that is a prior Award Recipient or Allocatee under any CDFI Fund program: (i) has demonstrated it is in noncompliance with or default of a previous Assistance Agreement, Allocation Agreement, Bond Loan Agreement, or Agreement to Guarantee and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in noncompliance with or default of its previous agreement, the CDFI Fund will consider the Applicant’s Application under this NOFA pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance or default.
Noncompliance or default status	The CDFI Fund will not consider an Application submitted by an Applicant that is a prior CDFI Fund Award Recipient or Allocatee under any CDFI Fund program if, as of the AMIS Application deadline in this NOFA, (i) the CDFI Fund has made a final determination in writing that such Applicant (or Affiliate of an Applicant identified in AMIS) is in noncompliance with or default of a previously executed Assistance Agreement, Allocation Agreement, Bond Loan Agreement, or Agreement to Guarantee, and (ii) the CDFI Fund has provided written notification that such entity is ineligible to apply for or receive any future CDFI Fund awards or allocations. Such entities will be ineligible to submit an Application for such time period as specified by the CDFI Fund in writing. Additionally, regardless of whether a sanction or remedy is imposed, the CDFI Fund will not consider an Application submitted by an Applicant if the default on a prior Allocation Agreement of the Applicant or an Affiliate occurs during the time period beginning 12 months prior to the Application deadline and ending with the FY 2026 award announcement. The CDFI Fund will not consider any Applicant that has defaulted on a loan from the CDFI Fund within five years of the Application deadline.
Debarment/Do Not Pay Verification	The CDFI Fund will conduct a debarment check on the Applicant. The CDFI Fund will not consider any Applicant that is debarred. The Do Not Pay Business Center was developed to support Federal agencies in their efforts to reduce the number of improper payments made through programs funded by the Federal Government. The Do Not Pay Business Center provides delinquency and debarment information to the CDFI Fund. If the Do Not Pay Business Center reports that the Applicant has a pending or delinquent debt to the Federal government, the Applicant will be required to demonstrate that it has resolved such pending or delinquent debt. Applicants that fail to demonstrate resolution of the pending or delinquent Federal debt in the timeframe specified by the CDFI Fund will be found ineligible to receive an award.

III. Program Description

A. *The general purpose:* The purpose of the SDL Program is to provide LLR and TA grants to qualified organizations to establish and maintain small dollar consumer loan programs that are safe, affordable, and responsible.

B. *Program Goals and Objectives:* SDL Program funding is intended to expand consumer access to financial institutions by providing alternatives to high-cost small dollar lending. The SDL Program funding is also intended to help unbanked and underbanked populations build credit, access affordable capital, and allow greater access into the mainstream financial system.

C. *Funding Priorities:* To pursue these objectives, the CDFI Fund will prioritize funding for Applications that propose to offer small dollar consumer loan programs that include any of the following characteristics: (1) offer small dollar consumer loan terms that are at least ninety (90) days; (2) use underwriting that considers the borrower's ability to repay a loan based on both the borrower's income and expenses; (3) make loan decisions within one business day after receipt of required documents; (4) offer a reduction in the borrower's loan rate if the borrower elects to use automatic debit payments; (5) offer automatic savings features that are built into the regularly-scheduled payments on a loan—provided that the resulting payment is still affordable—or, at a minimum, loans that can be structured so that, subject to the borrower's consent, payments continue for a period of time after the loan is repaid with all the payments going into a savings vehicle; and (6) offer access to financial education, including credit counseling, particularly if the Applicant offers financial education programs that are used as substitutes for late fees and overdraft fees when borrowers are at risk of incurring a late fee or overdraft fee.

D. *A description of how the award will contribute to achieving the program's goals and objectives:*

Expected community impacts may include improved financial strength and stability for low-income and underserved people and/or improved borrower delinquency rate and/or improved credit history and credit scores and/or access to mainstream financial products and expanded activity in other credit facilities (e.g., borrower received an auto loan) and/or continued access to financial education, including credit counseling and/or help to create or preserve savings and/or help borrowers consolidate or reduce debt at a lower cost.

E. *The expected performance goals, indicators, targets, baseline data, data collection, and other outcomes the Federal agency expects recipients to achieve:* All SDL Program Award Recipients must close small dollar consumer loans based on the three-year projected loan total to be closed as proposed in the Application. Final performance goals may be adjusted based on final award size and will be set forth in the final SDL Program Assistance Agreement.

1. *Persistent Poverty Counties:* Pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260) and Consolidated Appropriations Act, 2023 (Pub. L. 117–103) Congress mandated that at least 10% of the CDFI Fund's appropriations be directed to counties that meet the criteria for "Persistent Poverty" designation. Persistent Poverty Counties (PPCs) are defined as any county, including county equivalent areas in Puerto Rico, that has had 20% or more of its population living in poverty over the past 30 years (as measured by the 1990 and 2000 decennial censuses, and the 2016–2020 data series available from the American Community Survey of the U.S. Census Bureau), or any other territory or possession of the United States that has had 20% or more of its population living in poverty over the past 30 years (as measured by the 1990, 2000 and 2010 Island Areas Decennial Censuses, or equivalent data, of the U.S. Census Bureau). The PPC data is published by the CDFI Fund at: [https://www.cdfifund.gov/sites/cdfi/files/2024-](https://www.cdfifund.gov/sites/cdfi/files/2024-05/PPC_2020_ACS_May_10_2024.xlsx)

[05/PPC_2020_ACS_May_10_2024.xlsx](https://www.cdfifund.gov/sites/cdfi/files/2024-05/PPC_2020_ACS_May_10_2024.xlsx). To comply with this mandate, the CDFI Fund will prioritize funding to Applicants that have headquarters (as stated in the Applicant's Application) located in PPCs.

F. *Allowable costs: Eligible Activities:* An SDL Program Award must support or finance activities to establish and maintain small dollar consumer loan programs that are safe, affordable, and responsible. SDL Program Awards may only be used as follows:

1. *Loan Loss Reserves:* LLR Awards must be set aside in the form of cash reserves, or through accounting-based accrual reserves, to cover losses on small dollar consumer loans. LLR Awards may be used to mitigate losses on a new or established small dollar consumer loan program. LLR Award Recipients must meet performance goals prior to the end of the Period of Performance. The performance goals are derived from the Applicant's projections and attestations provided in the Application.

2. *Technical Assistance:* TA Awards may be used for technology, staff support, and other costs associated with establishing and maintaining a small dollar consumer loan program as listed in Table 5 of this NOFA. Recipients must expend at least 35% of TA Award by the end of the first year and 100% by the end of the third year of the Period of Performance. Recipients may choose to receive their TA Award in either a lump sum or by one Initial Payment and one Subsequent Payment. If electing to receive a Subsequent Payment, Recipients must submit a request within 12-months of their Assistance Agreement's execution date. The initial request amount must, at a minimum, be 35% of the total TA Award; 90% of this initial request amount must be disbursed before a Subsequent Payment will be paid. If the Recipient does not request a subsequent payment for the TA Award within 12-months of the execution of their Assistance Agreement, the CDFI Fund, in its sole discretion, may terminate its obligation to pay the balance of the TA funds.

TABLE 5—ELIGIBLE TECHNICAL ASSISTANCE ACTIVITY CATEGORIES
[Subject to the applicable provisions of the uniform requirements]

(i) Compensation—Personal Services.	TA paid to cover all remuneration, paid currently, or accrued, for services of Applicant's employees related to establishing or maintaining the Applicant's small dollar consumer loan program rendered during the Period of Performance under the TA grant in accordance with section 200.430 of the Uniform Requirements. Any work performed directly, but unrelated to the purposes of the TA grant may not be paid as Compensation through a TA grant. For example, the salaries for building maintenance are not related to the purpose of a TA grant and would be deemed unallowable.

TABLE 5—ELIGIBLE TECHNICAL ASSISTANCE ACTIVITY CATEGORIES—Continued

[Subject to the applicable provisions of the uniform requirements]

(ii) Professional service costs	TA used to pay for professional and consultant services (e.g., such as strategic and marketing plan development) related to establishing or maintaining the Applicant's small dollar consumer loan program, rendered by persons who are members of a particular profession or possess a special skill (e.g., credit analysis, portfolio management), and who are not officers or employees of the Applicant, in accordance with section 200.459 of the Uniform Requirements. Payment for a consultant's services may not exceed the current maximum of the daily equivalent rate paid to an Executive Schedule Level IV Federal employee.
(iii) Travel costs	TA used to pay costs of transportation, lodging, subsistence, and related items incurred by the Applicant's personnel who are on travel status on business related to establishing or maintaining the Applicant's small dollar consumer loan program, in accordance with section 200.475 of the Uniform Requirements. Travel costs do not include costs incurred by the Applicant's consultants who are on travel status. Any payments for travel expenses incurred by the Applicant's personnel but unrelated to carrying out the purpose of the TA grant would be deemed unallowable. As such, documentation must be maintained that justifies the travel as necessary to the TA grant.
(iv) Training and education costs ...	TA used to pay the cost of training and education provided by the Applicant for employees' development in accordance with section 200.473 of the Uniform Requirements. TA can only be used to pay for training costs incurred by the Applicant's employees related to establishing or maintaining the Applicant's small dollar consumer loan program. Training and education costs may not be incurred by the Applicant's consultants.
(v) Equipment	TA used to pay for tangible personal property, having a useful life of more than one year and a per-unit acquisition cost of at least \$10,000, as defined in section 200.1 of the Uniform Requirements, related to establishing or maintaining the Applicant's small dollar consumer loan program. For example, items such as information technology systems are allowable as Equipment costs. The Applicant must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 with respect to the purchase of Equipment.
(vi) Supplies	TA used to pay for tangible personal property with a per unit acquisition cost of less than \$10,000, as defined in section 200.1 of the Uniform Requirements, related to establishing or maintaining the Applicant's small dollar consumer loan program. For example, a desktop computer costing \$1,000 is allowable as a Supply cost. The Applicant must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 with respect to the purchase of Supplies.
(vii) Development Services	TA used to pay for activities undertaken by an Applicant that prepares or assists current or potential borrowers to use the Applicant's small dollar consumer loan program. For example, such activities include financial education, including credit counseling.

G. Matching Funds: The Matching Funds requirement for SDL Program Applicants was waived in the enacted FY 2025 Consolidated Appropriations Act. Therefore, SDL Program Applicants are not required to submit Matching Funds at the time of Application submission.

H. Required Loan Features: An Applicant will not be eligible to receive

an SDL Program Award if the Applicant fails to demonstrate in the Application that its SDL Program Award would be used to establish or maintain a small dollar consumer loan program that offers small dollar consumer loans that: (1) Are made in amounts that do not exceed \$2,500; (2) must be repaid in installments; (3) have no prepayment penalty; and (4) have payments that are

reported to at least one of the consumer reporting agencies that compiles and maintains files on consumers on a nationwide basis.

I. Prohibited Practices: Applicants are not eligible to use SDL Program Awards to support small dollar consumer loan programs that have the lending practices and loan characteristics listed in Table 6.

TABLE 6—SDL PROGRAM PROHIBITED PRACTICES

Prohibited practice	Prohibited practice definition
(i) High-Rate loans	Loans that exceed the lower of the following two rates: (1) an all-inclusive 36% APR, using the Military Annual Percentage Rate (MAPR) methodology; or (2) the interest rate limit as set by the state agency that oversees financial institutions in your state.
(ii) Coerced automated repayments	Loans that: (1) have delayed loan disbursements for borrowers who do not agree to automatic repayments, (2) charge fees for borrowers who select manual payments, or (3) require borrowers to make payments using wire transfers or other means that may result in additional fees for borrowers.
(iii) Excessive refinancing	Loans that allow refinancing before at least 80% of the principal has been repaid.
(iv) Loan insurance or credit card add-ons.	Loans that offer add-on insurance or credit card products, whether they are automatic or not, that require borrowers to opt-in or opt-out to decline coverage or require the borrower to accept or opt-out of a credit card. For example, loans that automatically include insurance products such as credit, life, disability insurance or involuntary unemployment insurance coverage, or loans that automatically open a credit card for the borrower.
(v) Security interests in household goods, vehicles, or deposit accounts.	Loans that are secured, except for loans secured by a savings account for loans with a savings component or credit builder loans.
(vi) Excessive late fees on missed loan payments.	Loans that charge more than one fee per late payment.
(vii) Abusive overdraft practices	Lenders who hold the account from which repayment is being made may not collect a loan payment from the borrower's account that overdraws the account, triggering overdraft fees.

TABLE 6—SDL PROGRAM PROHIBITED PRACTICES—Continued

Prohibited practice	Prohibited practice definition
(viii) Aggressive debt collection practices.	Loans in which the lender: Does not offer a workout program or other accommodations to help struggling borrowers before pursuing other debt collection avenues; All debt collection activities must comply with the Fair Debt Collection Practices Act, whether conducted by the lender, a contract debt collector, or sold to third party debt collectors; Does not disclose to borrowers the details of its debt collection practices or provide notice to a borrower when its account is placed with debt collectors.
(ix) Forced arbitration clause, class action ban, and other bans on legal remedies.	Loan contracts that contain clauses that prevent borrowers from seeking legal remedies in court, such as mandatory arbitration clauses, or clauses requiring that the borrower waive the right to a trial by jury or the right to participate in a class action lawsuit.

J. SDL Program Statutory Requirements: 1. SDL Program Awards may not be used to provide direct loans to consumers. 2. SDL Program Awards may only be used to support small dollar consumer loan programs that offer small dollar consumer loans that: are made in amounts that do not exceed \$2,500; (a) must be repaid in installments; (b) have no prepayment penalty; (c) have payments that are reported to a least one of the consumer reporting agencies that compiles and maintains files on consumers on a nationwide basis; and (d) are underwritten with standards that consider the consumer’s ability to repay.

K. Authorizing statutes and regulations: Relevant statutes and regulations for the SDL Program include: 1. Title XII—Improving Access to Mainstream Financial Institutions Act of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111–203), which amended the Riegle Community Development Banking and Financial Institutions Act of 1994 (Pub. L. 103–325) to include the SDL Program (12 U.S.C. 4719). 2. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 1000) (Uniform Requirements or Uniform Administrative Requirements): <https://www.ecfr.gov/current/title-2/subtitle-B/chapter-X/part-1000>.

The CDFI Fund encourages Applicants to review this NOFA; the SDL Program Application (the Application); all related materials and guidance documents found on the CDFI Fund’s website (Application materials);

and the Uniform Requirements for a complete understanding of the SDL Program. Capitalized terms in this NOFA are defined in the Authorizing Statute, this NOFA, the Application, Application materials, or the Uniform Requirements. Details regarding Application content requirements are found in the Application and Application materials.

L. Other Eligibility Criteria: Affiliated Entity Application Submission: As part of the Application review process, the CDFI Fund considers whether Applicants are Affiliates, as such term is defined in 12 CFR 1805.104. An Applicant and its Affiliates may not submit separate Applications. If Affiliates submit multiple or separate Applications, the CDFI Fund may, at its discretion, reject all such Applications received or select only one of the submitted Applications to deem eligible, assuming the Application meets all other eligibility criteria in Section III of this NOFA. Furthermore, an Applicant that receives an award in this SDL Program round may not become an Affiliate of another Applicant that receives an award in this SDL Program round at any time after the submission of an SDL Program Application under this NOFA. This requirement will also be a condition of the Assistance Agreement (see the Small Dollar Loan Program Frequently Asked Questions (FAQs) on the CDFI Fund’s website at: <https://www.cdfifund.gov/programs-training/programs/sdlp/apply-step#application-materials> for more details).

IV. Application Contents and Format

The CDFI Fund has a sequential, two-step application process that requires the submission of Application documents in two separate systems with two separate deadlines. The required Application documents are listed in Table 7 below. The Application submission deadlines for all Application components are listed in Table 2. Additional information regarding mandatory account access, how to submit all components of the Application through *Grants.gov* (<https://www.grants.gov>) and AMIS (<https://amis.cdfifund.gov>), and Authorized Representative signature requirements for the Application is provided in Section V of this NOFA. All Application materials can be found on *Grants.gov* and the CDFI Fund’s website at <https://www.cdfifund.gov/programs-training/programs/sdlp/apply-step#application-materials>. All Applications should be prepared using the English language, and calculations must be computed in U.S. dollars. The CDFI Fund reserves the right to request and review other pertinent or public information that has not been specifically requested in this NOFA or the Application. Information submitted by the Applicant that the CDFI Fund has not specifically requested will not be reviewed or considered as part of the Application. Financial data, portfolio, and activity information provided in the Application should only include the Applicant’s activities. Information submitted must accurately reflect the Applicant’s activities (other than Depository Institution Holding Companies).

TABLE 7—REQUIRED APPLICATION COMPONENTS

Application components	Applicant type	Submission format
Active AMIS Account	All Applicants	AMIS.
SF—424	All Applicants	Fillable PDF in <i>Grants.gov</i> .
SDLP Program Application	All Applicants	AMIS.

TABLE 7—REQUIRED APPLICATION COMPONENTS—Continued

Application components	Applicant type	Submission format
Attachments to the Application		
Audited Financial Statements for the two most recently completed fiscal years, completed prior to the publication date of this NOFA. If not available, non-regulated Applicants must submit externally reviewed statements for the two most recently completed fiscal years prior to the publication date of this NOFA.	Non-Regulated Applicants (Required only for Loan funds, venture capital funds, and other non-Regulated Institutions.).	PDF in AMIS.
Management Letter ⁹ for the Applicant's most recently completed fiscal year.	(Required only for Loan funds, venture capital funds, and other non-Regulated Institutions.). Required only for Regulated Institutions	PDF in AMIS.
Year-end Call Reports for Applicant's two most recently completed fiscal years prior to the publication date of the NOFA. (see FAQs for additional guidance).		PDF in AMIS.
A Qualified FIDI Partnership Attestation Form demonstrating the FIDI has a primary mission of serving targeted Investment Areas.	Required only for a FIDI that is applying as a partnership with a Certified CDFI for an LLR Award.	PDF in AMIS.
A Partnership Agreement between a Certified CDFI and a FIDI that has a primary mission of serving targeted Investment Areas, applying for an LLR Award, or a Partnership Agreement between or among two or more Certified CDFIs applying for a TA Award detailing the terms of their partnership to establish or maintain a small dollar consumer loan program.	Required only for: (1) a FIDI and a Certified CDFI applying for an LLR Award; and (2) two or more Certified CDFIs that are applying as a partnership for a TA Award.	PDF in AMIS.

A. Eligible Applicants may submit only one SDL Program Application. Applicants are responsible for determining the requested SDL Program Award type.

1. *LLR Awards*: (a) a Certified CDFI; or (b) a partnership between a Certified CDFI and a Federally Insured Depository Institution (FIDI) with a primary mission to serve targeted Investment Areas. 2. *TA Awards*: (a) a Certified CDFI; or (b) a partnership between two or more Certified CDFIs. 3. *Combination of LLR and TA Awards*: (a) a Certified CDFI.

B. *Additional Guidance on Applicants Applying as Partnerships*: A partnership is a formal arrangement, as evidenced by a written partnership agreement (e.g., Memorandum of Understanding), between a Certified CDFI and a FIDI or between two or more Certified CDFIs. The partnership must be designed to

accomplish one or more of the strategic goals discussed in the Business Strategy section of the SDL Applicant's Application and be integral to the successful completion of the Applicant's strategic goal(s). The partnership should be such that the Applicant's strategic goal(s) would not be achievable without the direct input and/or assistance of the partner. An Applicant that collaborates or coordinates with a FIDI or a Certified CDFI to achieve the strategic goals detailed in the Application is not required to apply as a partnership. The partnership must designate a lead Certified CDFI for the partnership that will submit the Application. The designated lead Certified CDFI will also submit a written partnership agreement (e.g., Memorandum of Understanding) detailing roles and responsibilities of the partners, partner replacement or substitution restrictions, any financial contributions and profit-sharing arrangements, and performance requirements for the entities in the partnership. A partner must be a FIDI, if the partnership is applying for an LLR Award, or a Certified CDFI, if the partnership is applying for a TA Award. A partner may not apply for its own Award or apply as a partner for more than one Application submitted for the FY 2026 SDL Program Funding Round. Applicants that apply as a partnership will be evaluated based on the same criteria as Applicants that apply without a partnership. If selected to receive an SDL Program Award, the lead Certified CDFI Recipient will be solely

responsible for carrying out the activities described in its Application and complying with the terms and conditions of the Assistance Agreement. The partner(s) will not be a co-Recipient of the Award. As such, the lead Certified CDFI Recipient will be prohibited from using the SDL Program Award to fund any activity carried out directly by the partner or an Affiliate or Subsidiary thereof. Examples of partnerships include the following:

Example 1: ABC Certified CDFI has a strategic goal of increasing its small dollar lending by X% over X number of years. ABC Certified CDFI will request an SDL Program Award for LLR to mitigate losses on the small dollar loans it provides as it seeks to expand its small dollar loan program. ABC Certified CDFI has a Partnership Agreement in place with a local FIDI in which the FIDI will refer all small dollar loan candidates to ABC Certified CDFI to expand ABC Certified CDFI's small dollar loan program. ABC Certified CDFI will explain in its narrative and Partnership Agreement how an SDL Program Award for LLRs and the referrals from the local FIDI partner will ensure that its strategic goal of increasing small dollar lending is achieved.

Example 2: XYZ Certified CDFI has a strategic goal to provide a new small dollar loan product. XYZ Certified CDFI will request an SDL Program Award for TA to upgrade its technology systems to support a new small dollar loan product. XYZ Certified CDFI has a Partnership Agreement in place with a

⁹ The Management Letter is prepared by the Applicant's auditor and is a communication on internal control over financial reporting, compliance, and other matters. The Management Letter contains the auditor's findings regarding the Applicant's accounting policies and procedures, internal controls, and operating policies, including any material weaknesses, significant deficiencies, and other matters identified during auditing. The Management Letter may include suggestions for improving on identified weaknesses and deficiencies and/or best practice suggestions for items that may not be deemed weaknesses or deficiencies. The Management Letter may also include items that are not required to be disclosed in the annual audited financial statements. The Management Letter is distinct from the auditor's Opinion Letter, which is required by Generally Accepted Accounting Principles (GAAP). Management Letters are not required by GAAP and are sometimes provided by the auditor as a separate letter from the audit itself.

Certified CDFI that will provide free financial counseling services to the XYZ Certified CDFI's small dollar loan Applicants. XYZ Certified CDFI chooses to apply as a partnership with the Certified CDFI as its partner. XYZ Certified CDFI will explain in its narrative and Partnership Agreement how an SDL Program Award for TA and the financial counseling provided to potential borrowers will support the growth of the new small dollar loan program.

Note: A Certified CDFI Depository Institution Holding Company Applicant that intends to carry out the activities of an Award through its Subsidiary Certified CDFI Insured Depository Institution should not apply as a partnership. Instead, the Certified CDFI Depository Institution Holding Company should apply as a sole entity.

V. Submission Requirements and Deadlines

A. How to Find or Request Application Materials: The Application materials can be found on *Grants.gov* and the CDFI Fund's website at: <https://www.cdfifund.gov/programs-training/programs/sdlp/apply-step#application-materials>. The CDFI Fund may update the Application materials as necessary during the Application round. Applicants are encouraged to pay attention to the CDFI Fund's website for updated resources.

B. Content and Form of Application Submission: The CDFI Fund will post instructions for accessing and submitting an Application at: <https://www.cdfifund.gov/programs-training/programs/sdlp/apply-step#application-materials>. Detailed Application content requirements are found in the Application and related guidance documents. If an Applicant is unable to access *Grants.gov* <https://www.grants.gov> or the CDFI Fund's website, the Applicant may request a paper version of any Application material by contacting the CDFI Fund Help Desk by email at SDLP@cdfi.treas.gov or by phone at (202) 653-0421. A paper version of Application materials will only be provided if an

Applicant cannot access *Grants.gov* (<https://www.grants.gov>) or the CDFI Fund's website. Additionally, the SF-424 must be submitted through *Grants.gov* and all other Application documents must be submitted through the AMIS portal (<https://amis.cdfifund.gov>). The CDFI Fund will not accept Applications via email, mail, facsimile, or other forms of communication, except in extremely rare circumstances that have been pre-approved by the CDFI Fund.

C. Submission Dates and Times: Table 2 in Section I lists the deadlines for submission of the documents related to the FY 2026 SDL Program funding round.

D. Submission Instructions: The CDFI Fund has a sequential, two-step process that requires the submission of Application documents in separate systems with two separate deadlines. The SF-424 must be submitted through *Grants.gov* and all other Application documents through the AMIS portal. The required Application components are outlined in Section IV. The separate Application deadlines for the SF-424, and all other Application materials are listed in Table 2.

E. System for Award Management (SAM.gov) and Unique Entity Identifier (UEI): Any entity applying for Federal financial assistance must first register in *SAM.gov* (<https://www.sam.gov>). When accessing *SAM.gov*, users will be asked to create a *login.gov* user account (if they do not already have one). Going forward, users will use their *login.gov* username and password every time when logging into *SAM.gov*.

The UEI, generated in *SAM.gov*, is the official identifier for doing business with the Federal government. If an entity is registered in *SAM.gov* today, its UEI has already been assigned and is viewable in *SAM.gov*, including inactive registrations. New registrants will be assigned a UEI as part of their *SAM.gov* registration. Applicants will be required to provide a valid UEI in AMIS (see section II). All entities registered in *SAM.gov* must have an authorized entity administrator. *SAM.gov* requires that new registrants, and existing registrants

that do not have an entity administrator, mail an original, signed notarized letter identifying the authorized entity administrator for the entity to the Federal Service Desk. Existing entities with registered entity administrators do not need to submit an annual notarized letter. Visit *SAM.gov* for more information about this requirement. Applicants that have previously completed the *SAM.gov* registration process must verify that their *SAM.gov* accounts are current and active. Applicants are required to maintain a current and active *SAM.gov* account at all times during which they have an active Federal award or an Application under consideration for an award by a Federal agency.

The *SAM.gov* registration process can take four weeks or longer to complete, so Applicants are strongly encouraged to begin the registration as soon as possible to avoid potential Application submission issues. The CDFI Fund will not consider any Applicant that fails to properly register or activate its *SAM.gov* account and, as a result, is unable to submit its Application by the Application deadline. Additionally, the CDFI Fund reserves the right to deem an Application ineligible or terminate an award if the Applicant's *SAM* account expires during the Application evaluation and post-award process, and the Applicant does not re-activate or renew (as applicable) the account by the CDFI Fund's requested deadlines. Applicants must contact *SAM.gov* directly with questions related to the registration process as the CDFI Fund does not maintain this system.

F. Grants.gov Submission Information: The CDFI Fund strongly encourages Applicants to start the *Grants.gov* registration process as soon as possible, as it may take one week or more to complete (refer to the following link: <http://www.grants.gov/register>). An Applicant that has previously registered with *Grants.gov* must verify that its registration is current and active. If an Applicant has not previously registered with *Grants.gov*, it must first successfully register in *SAM.gov*, as described in Section II above.

TABLE 8—GRANTS.GOV REGISTRATION TIMELINE SUMMARY

Step	Agency	Estimated minimum time to complete
Obtain an EIN	Internal Revenue Service (IRS)	Two (2) Weeks.*
Register in <i>SAM.gov</i>	System for Award Management (<i>SAM.gov</i>). This step will include obtaining a UEI.	Four (4) Weeks.*
Register in <i>Grants.gov</i>	<i>Grants.gov</i>	One (1) Week.**

* Applicants are advised that the stated durations are estimates only and represent minimum timeframes. Actual timeframes may take longer. The CDFI Fund will not consider any Applicant that fails to properly register or activate its *SAM* account, has not yet received a UEI number, and/or fails to properly register in *Grants.gov*.

** This estimate assumes an Applicant has a UEI number, an EIN number, and is already registered in *SAM.gov*.

Once registered, Applicants are strongly encouraged to submit the SF-424 as early as possible through *Grants.gov* to provide sufficient time to resolve any potential submission issues. Each Applicant will receive an initial email from *Grants.gov* immediately after submitting the SF-424, confirming that the submission has entered the *Grants.gov* system. This email will contain a tracking number for the submitted SF-424. Within forty-eight (48) hours, the Applicant will receive a second email which will indicate if the submitted SF-424 was either successfully validated or rejected with errors. However, Applicants should not rely on the email notification from *Grants.gov* to confirm that their SF-424 was validated. Applicants are strongly encouraged to use the tracking number provided in the first email to closely monitor the status of their SF-424 by checking *Grants.gov* directly. The Application materials submitted in AMIS are not accepted by the CDFI Fund until *Grants.gov* has validated the SF-424. In the *Grants.gov* Workspace function, please note that the Application package has not been submitted if you have not received a tracking number. Applicants should contact *Grants.gov* directly with questions related to the registration or submission process, as the CDFI Fund does not administer the *Grants.gov* system.

G. AMIS Registration Information: AMIS is a web-based portal where Applicants will directly enter their Application information and upload required attachments listed in Table 7. Each Applicant must register as an organization in AMIS by the deadline in Table 2 to submit the required Application materials through this portal. An Applicant that fails to properly register and/or update its AMIS account may miss important communications from the CDFI Fund or fail to submit an Application successfully.

H. Authorized Representative Signature and AMIS Requirements: Prior to submission, each Application in AMIS must be signed by an Authorized Representative. An Authorized Representative is an employee or officer of the Applicant organization and has the authority to legally bind and make representations on behalf of the Applicant; it cannot be a consultant. The Authorized Representative must be a “user” in AMIS and included as a “Contact” in the Applicant’s AMIS account.

I. AMIS Application Point(s) of Contact: AMIS Application point(s) of contact will be included on any communication from the CDFI Fund regarding the Application. Application point(s) of contact can submit the Application but cannot sign the Application. Consultants working on behalf of the Applicant cannot be

designated as Authorized Representatives but can be designated as Application point(s) of contact.

J. AMIS Application Submission Requirements: AMIS will verify that the Applicant provided the minimum information required to submit an Application. Applicants are responsible for the quality and accuracy of the information and attachments included in the Application submitted in AMIS. The CDFI Fund strongly encourages the Applicant to allow sufficient time to confirm the Application content, review the material submitted, and remedy any issues prior to the Application deadline. Only an Authorized Representative for the organization or an Application Point of Contact can submit the Application in AMIS. Upon submission, the Application will be locked and cannot be resubmitted, edited, or modified in any way. The CDFI Fund will not unlock a submitted Application. The following table lists the mandatory accounts and steps required to successfully submit the FY 2026 Funding Round Application Documents through *Grants.gov* and AMIS. The separate Application deadlines for the SF-424 and the submission of all other Application materials are listed in Tables 2 and 10. The CDFI Fund strongly encourages Applicants to complete all *Grants.gov* and AMIS Application submission steps as early as possible to provide sufficient time to resolve any potential submission issues.

TABLE 9—ACCOUNT AND APPLICATION SUBMISSION REQUIREMENTS FOR ALL APPLICANTS

Employer Identification Number (EIN).	Applicants must have a unique EIN assigned by the Internal Revenue Service (IRS).
System for Award Management (SAM).	Applicants must enter their EIN into their AMIS profile on or before the deadline specified in Table 2. The EIN in the Applicant’s AMIS account must match the EIN in the Applicant’s System for Award Management (SAM) account. The CDFI Fund reserves the right to reject an Application if the EIN in the Applicant’s AMIS account does not match the EIN in its SAM account. The CDFI Fund will reject an Application submitted with the EIN of a parent or Affiliate organization. Applicants must complete registration in <i>SAM.gov</i> to be able to complete their <i>Grants.gov</i> registration and submit an SF-424. Applicants must have an EIN to register in <i>SAM.gov</i> . Applicants that have an active SAM registration have been assigned a Unique Entity Identifier (UEI). See <i>SAM.gov</i> for more information. The SAM registration process can take 30 days or more to complete. The CDFI Fund strongly encourages Applicants to register as early as possible to meet the deadlines in Table 2 and Table 10.
Unique Entity Identifier (UEI)	Applicants must enter their UEI number into their AMIS profile on or before the deadline specified in Tables 2 and 10. The UEI number in the Applicant’s AMIS account must match the UEI number in the Applicant’s <i>Grants.gov</i> and SAM accounts. The CDFI Fund will reject an Application if the UEI number in the Applicant’s AMIS account does not match the UEI number in its <i>Grants.gov</i> and SAM accounts. For Applicants applying as a partnership, the UEI number of the Designated Lead Certified CDFI Applicant in AMIS must match the UEI number on the SF-424 submitted through <i>Grants.gov</i> . The CDFI Fund will reject an Application submitted with the UEI number of a parent or Affiliate organization.
<i>Grants.gov</i> Account	Applicants must submit the Office of Management and Budget (OMB)-approved Standard Form (SF) 424 Mandatory (Application for Federal Assistance) form in <i>Grants.gov</i> . The SF-424 must be submitted under the FY 2026 SDL Funding Round SDL Funding Opportunity Number. Applicants must have an existing <i>SAM.gov</i> registration to register in <i>Grants.gov</i> . The <i>Grants.gov</i> registration process can take one week or more to complete. The CDFI Fund strongly encourages Applicants to register as early as possible to meet the deadlines in Table 2. See <i>Grants.gov</i> for more information.

TABLE 9—ACCOUNT AND APPLICATION SUBMISSION REQUIREMENTS FOR ALL APPLICANTS—Continued

AMIS Account	The SF-424 must be submitted in <i>Grants.gov</i> before the other Application materials are submitted in AMIS. If the SF-424 is not accepted by <i>Grants.gov</i> by the applicable deadline, the Applicant will not be able to submit the AMIS Application. The CDFI Fund will not extend the SF-424 application deadline for any Applicant that started the <i>Grants.gov</i> registration process on, before, or after the date of the publication of this NOFA, but did not complete it by the deadline, except in the case of a Federal government administrative or technological error that directly resulted in preventing an Applicant from submitting the SF-424 by the required deadline. Each Applicant, including each Consortium Member, must register as an organization in the CDFI Fund's Awards Management Information System (AMIS) and submit all required Application materials through the AMIS portal. In the case where a Certified CDFI Depository Institution Holding Company Applicant intends to carry out the activities of an award through its Certified CDFI Subsidiary Insured Depository Institution, both the Certified CDFI Depository Institution Holding Company Applicant and the Certified CDFI Subsidiary Insured Depository Institution must be registered in AMIS. The Applicant's Authorized Representative and Application Point of Contact must be included as "users" in the Applicant's AMIS account. If the Applicant does not complete the registration for its organization in AMIS by the deadline set forth in Table 2, its Application will be rejected without further consideration. The CDFI Fund will not extend the AMIS account creation deadline for any Applicant that failed to properly register and update its AMIS account by the deadline except in the case of a Federal government administrative or technological error that directly resulted in preventing an Applicant from creating the account.
Application submission through <i>Grants.gov</i> and Awards Management Information System.	Applicants must submit the Required Application Documents listed in Table 7. The CDFI Fund will only accept Applications that use the official Application templates provided on the <i>Grants.gov</i> and AMIS websites. Applications submitted with alternative or altered templates will not be considered. Applicants undergo a two-step process that requires the submission of Application documents by two separate deadlines in two different locations: (1) the SF-424 in <i>Grants.gov</i> and (2) all other Required Application Documents in AMIS. <i>Grants.gov</i> and the Standard Form 424 (SF-424): The SF-424 must be submitted in <i>Grants.gov</i> on or before the deadline listed in Table 2. Applicants are strongly encouraged to submit their SF-424 as early as possible in the <i>Grants.gov</i> portal. Because the SF-424 is part of the Application, if the SF-424 is not accepted by <i>Grants.gov</i> by the applicable deadline, the Applicant will not be able to submit the AMIS Application. The deadline for the <i>Grants.gov</i> submission is before the AMIS submission deadline. AMIS and all other Required Application Documents listed in Table 7. All Required Application Documents must be submitted in AMIS on or before the deadline specified in Table 2. Applicants are only allowed one SDL Program Application submission in AMIS. Each Application in AMIS must be signed by an Authorized Representative. Applicants must ensure that the Authorized Representative is an employee or officer of the Applicant, authorized to sign legal documents on behalf of the organization. Consultants working on behalf of the organization may not be designated as Authorized Representatives. Only the Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS. The CDFI Fund will not extend the AMIS Application submission deadline for any Applicant except in the case of a Federal government administrative or Federal technological error that directly resulted in preventing the submission of the Application in AMIS by the deadline.

K. Multiple Application Submissions:

Each Applicant is only permitted to submit one complete Application in AMIS. The CDFI Fund will not allow multiple AMIS Application submissions. However, the CDFI Fund does not administer *Grants.gov*, which does allow for multiple submissions of the SF-424. If an Applicant submits multiple SF-424 Applications in *Grants.gov*, the CDFI Fund will only review the SF-424 Application submitted in *Grants.gov* that is attached to the AMIS Application. Applicants using a Consortium Approach must each separately submit an SF-424 and Application in AMIS.

L. Late Submission or AMIS Account Creation: The CDFI Fund will not accept an Application if the SF-424 is

not submitted and accepted by *Grants.gov* by the SF-424 deadline listed in Table 2. Additionally, the CDFI Fund will not accept an Application if it is not signed by an Authorized Representative and submitted in AMIS by the Application deadline listed in Table 2. The CDFI Fund will also not accept an Application from an Applicant that failed to create an AMIS account by the deadline specified in Table 2. In these cases, the CDFI Fund will not review any material submitted, and the Application will be deemed ineligible. However, in cases where a Federal government administrative or technological error directly resulted in preventing an Applicant from submitting the SF-424, the Application, or creating an AMIS account by the

deadlines stated in this NOFA, the Applicant must submit a written request for acceptance of late submissions by the deadline specified in Table 10. Be aware that an unexpected delay in a Federal government process does not in and of itself constitute a Federal government administrative or technological error. The CDFI Fund will only approve the late submission of the SF-424, the Application, or the late creation of an AMIS account, if the Applicant demonstrates that an unexpected delay was the direct result of a Federal government administrative or technological error. The written request must be submitted to the CDFI Fund as an AMIS Service Request with the subject line as specified in Table 10, and the request must include

documentation of the Federal government administrative or technological error acceptable to the

CDFI Fund. Table 10 below outlines the deadlines and AMIS Service Request

requirements for requesting a late submission:

TABLE 10—REQUESTS FOR LATE SUBMISSION OR ACCOUNT CREATION

Late submission or account creation request	Deadline to submit AMIS service request	Deadline time for AMIS service request (eastern time—ET)	AMIS service request subject line
Creation of AMIS Account	07 24, 2026	11:59 p.m. ET	SDL Program—AMIS Account Creation Deadline Extension Request.
SF-424	07 24, 2026	11:59 p.m. ET	SDL Program—Late SF-424 Submission Request.
AMIS Application	07 31, 2026	11:59 p.m. ET	SDL Program—Late Application Submission Request.

M. Funding Restrictions: SDL Program Awards are limited by the following:

1. A Recipient shall use SDL Program Award funds only for the eligible activities set forth in the Application and as described in Table 6 and Section III F. of this NOFA and the Award's applicable Assistance Agreement. 2. A Recipient may not disburse SDL Program Award funds to an Affiliate, Subsidiary, or any other entity in any manner that would create a Subrecipient relationship (as defined in the Uniform Requirements) without the CDFI Fund's prior written approval. 3. SDL Program Award dollars shall only be paid to the Recipient. 4. The CDFI Fund, in its sole discretion, may pay SDL Program Awards in amounts, or under terms and conditions, which are different from those requested by an Applicant. However, the CDFI Fund will not grant an Award more than the amount requested by the Applicant.

VI. Application Review Information

A. Responsiveness Review: If the Applicant has submitted an eligible Application, the CDFI Fund will conduct a substantive review in accordance with the criteria and procedures described in the Regulations, this NOFA, the Application guidance, and the Uniform Requirements. The CDFI Fund reserves the right to contact the Applicant by telephone, email, or mail for the purpose of clarifying or confirming Application information. If contacted, the Applicant must respond within the time period communicated by the CDFI Fund or risk that its Application will be rejected. The CDFI Fund will review the SDL Application in accordance with the process below. All Application reviewers will complete the CDFI Fund's conflict of interest process.

B. Review and Selection Process: The CDFI Fund will evaluate each complete and eligible Application using the multi-phase review process described in this section. Where appropriate, the

CDFI Fund will use different criteria to evaluate the financial health, capacity, and strategies of the Applications based on the proposed use(s) of the SDL Program Award. These differences are noted in the following sections and the Application Instructions. Applicants that meet the minimum criteria will advance to the next step in the review process.

1. Eligibility Review: The CDFI Fund will evaluate each Application to determine its eligibility status pursuant to Section II of this NOFA.

2. Financial Analysis: For Regulated Institutions, the CDFI Fund will consider financial safety and soundness information from the Appropriate Federal or State Banking Agency. As detailed in Table 5, each Regulated Institution SDL Program Applicant must have a CAMEL(S) rating of a "1", "2", or "3", and no material concerns from its regulator. In addition, bank Applicants must have a CRA rating of at least "Satisfactory". For non-regulated Applicants, the CDFI Fund will evaluate the financial health and viability of each non-regulated Applicant using the Application Assessment Tool and the financial information provided by the Applicant. For the Financial Analysis, each non-regulated Applicant will receive a Total Financial Composite Score on a scale of one (1) to five (5), with one (1) being the assigned the highest rating. The Total Financial Composite Score is based on the analysis of twenty-three (23) financial indicators. Applications will be grouped based on the Total Financial Composite Score. Applicants must receive a Total Financial Composite Score of one (1), two (2), or three (3) to advance to the Business Strategy and Community Impact Review phase. CDFI Fund staff will review and confirm the scores for Applications that receive an initial Total Financial Composite Score of four (4) or five (5). If the Total Financial Composite Score remains four (4) or five (5) after CDFI Fund staff review, the Applicant

will not advance to the Business Strategy Review phase and will not receive further consideration for an Award.

3. Compliance Risk Evaluation: The CDFI Fund will evaluate the compliance risk of each Applicant using information provided in the Application, as well as an Applicant's reporting history, reporting capacity, and performance risk with respect to the Applicant's performance goals for all CDFI Fund awards. Each Applicant will receive a Total Compliance Composite Score on a scale of one (1) to five (5), with one (1) being assigned the highest rating. CDFI Fund staff will review and confirm the scores for Applications that receive an initial Total Compliance Composite Score of four (4) or five (5). If the Applicant is deemed a high compliance risk after CDFI Fund Staff review, the Applicant will not advance to the Business Strategy Review phase and will not receive further consideration for an award. *4. Business Strategy Review:* Applicants that proceed to this phase will be evaluated on the soundness of their proposed business strategy. The Business Strategy evaluation consists of four sections, totaling 100 points as follows: Market Analysis and Award Strategy (40 points), Loan Products and Lending Practices (10 points), Pipeline and Projections (30 pts), and Organizational Capacity (20 points). Applicants will receive a Total Business Strategy Review Score equivalent to "Low Risk", "Medium Risk" or "High Risk." Applicants must receive a Total Business Strategy Review Score that is equivalent to a "Low Risk" or "Medium Risk" to advance to the Final Award Decision and Award Amount Determination Stage. Applicants that receive an overall rating of "High Risk" in this part of the evaluation will not advance to the Final Award Decision and Award Amount Determination Stage and will not receive further

consideration for an SDL Program Award. In the Business Strategy Review, the CDFI Fund will review and evaluate: (a) the needs of communities and persons in the areas the Applicant proposes to serve with an SDL Program Award and the extent to which the proposed strategy addresses these needs; (b) the small dollar lending and financing gaps addressed by its business strategy; (c) the projected SDL Program activities and track record; (d) the role the SDL Program Award plays in its financing strategy and the expected community impact that will be sought as a result of the proposed program; (e) Applicant's organizational capacity. Within the Business Strategy Review, an Applicant will generally be deemed a lower risk to the extent that it: (i) clearly aligns its proposed SDL Program Award activities and products with the small dollar consumer needs and financing gaps it identifies; (ii) demonstrates that its strategy and activities will result in more favorable financing rates and terms for borrowers; (iii) demonstrates that its projected activities are achievable based on the Applicant's strategy and track record and demonstrates an increase in its small dollar lending; (iv) describes a clear process for selecting borrowers that have a clear need for its small dollar consumer loan program financing; and (v) has a credible pipeline of borrowers. An Applicant will also generally score more favorably to the extent it has a volume of projected activities supported by its track record. An Applicant will also score favorably if its small dollar consumer loan program offers one or more of the following lending practices and loan characteristics that promote affordable and responsible small dollar lending and clearly address the identified financing gaps: the loan term is at least ninety days, and/or it considers the borrower's ability to repay by assessing both the borrower's income and expenses (*i.e.* bases lending on a borrower's ability to repay according to the terms of the loan, while meeting other expenses, without needing to refinance/re-borrow, and without relying on collateral), and/or loan decisions are made within one business day after receipt of required documents, and/or the borrower receives a reduction in its loan rate if s/he uses automatic debit payments, and/or the Applicant's small dollar consumer loan program offers automatic savings features, and/or the Applicant offers access to financial education, including credit counseling. An Applicant will also score more favorably if it demonstrates strong organization

capacity, including key staff with relevant experience to manage a small dollar consumer loan program. An Applicant will also score more favorably if it is located in a non-metropolitan area based on the Office of Management and Budget's 2020 Core Based Statistical Areas designations. For Applicants applying for an LLR Award, the Applicant will discuss how the LLR Award will be used to launch a small dollar consumer loan program or expand its existing small dollar program that meets the statutory and other requirements described in this NOFA. The Applicant will also describe its strategy and structure of the LLR account. Further, the Applicant will discuss the anticipated loss rate the LLR will cover and how the loss rate was estimated.

For Applicants applying for a TA Award, the Applicant will discuss how the TA Award will be used to launch a small dollar consumer loan program or expand its existing small dollar program that meets the statutory and other requirements described in this NOFA. The Applicant will include information about intended uses of the TA Award which comply with eligible uses as stated in Section II of this NOFA.

5. Final Award Decision and Award Amount Determination: During this last phase, the CDFI Fund will review all SDL Program Applications that make it to this step to ensure adherence with the SDL Program's policies and procedures, as well as applicable federal regulations. The CDFI Fund will also review the Applicant's management team and key staff, compliance status, eligibility, due diligence, and regulatory matters. This due diligence includes an analysis of programmatic and financial risk factors including, but not limited to, financial stability, history of performance in managing federal awards (including timeliness of reporting and compliance), audit or regulator findings, and the Applicant's ability to effectively implement federal requirements. For Applicants applying for awards to establish a small dollar consumer loan program, the CDFI Fund will also consider the Applicant's ability to start a new small dollar consumer loan program. If an Applicant is found to be a significant risk as a result of the due diligence review, the CDFI Fund may eliminate the Applicant from consideration for an SDL Program Award. The CDFI Fund will determine award amounts for Applications based on the due diligence performed, the Applicant's requested amount, and certain other factors, including but not limited to, the Applicant's three-year projected total small dollar consumer

loans to be closed, Applicant's use of preferred lending practices and loan characteristics stated in this NOFA that promotes affordable and responsible small dollar lending, Applicants headquartered in PPCs (as stated in the Applicant's Application), an Applicant's risk rating level, and funding availability. Award amounts may be reduced from the requested award amount as a result of the above factors.

(a) Regulated Institutions: The CDFI Fund will consider safety and soundness information from the Appropriate Federal or State Banking Agency. If the Applicant is a CDFI Depository Institution Holding Company, the CDFI Fund will consider information provided by the Appropriate Federal or State Banking Agencies about both the CDFI Depository Institution Holding Company and the Certified CDFI Subsidiary Insured Depository Institution that will expend and carry out the award. If the Appropriate Federal or State Banking Agency identifies safety and soundness concerns, the CDFI Fund will assess whether such concerns cause or will cause the Applicant to be incapable of undertaking the activities for which funding has been requested.

(b) Non-Regulated Institutions: The CDFI Fund must ensure, to the maximum extent practicable, that Applicants which are non-regulated CDFIs are financially and managerially sound and maintain appropriate internal controls (12 U.S.C. 4707(f)(1)(A) and 12 CFR 1805.800(b)). Further, the CDFI Fund must determine that an Applicant's capacity to operate as a CDFI, and its continued viability will not be dependent upon assistance from the CDFI Fund (12 U.S.C. 4704(b)(2)(A)). If it is determined that the Applicant is incapable of meeting these requirements, the CDFI Fund reserves the right to deem the Applicant ineligible or terminate the award.

6. Anticipated Award Announcement: The CDFI Fund anticipates making the SDL Program Award announcement before September 30, 2026. However, the anticipated award announcement date is subject to change without notice.

C. Changes in Eligibility and Evaluation Criteria: The CDFI Fund reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If said changes materially affect the CDFI Fund's Award decisions, the CDFI Fund will provide information regarding the changes through the CDFI Fund's website. It is the Applicant's

responsibility to monitor the CDFI Fund's website for such changes.

D. Application Rejection: The CDFI Fund reserves the right, in its sole discretion, to reject an Application if information (including administrative errors) comes to the attention of the CDFI Fund that adversely affects an Applicant's eligibility for an Award, adversely affects the CDFI Fund's evaluation or scoring of an Application, or indicates fraud or mismanagement on the Applicant's part, including mismanagement of another Federal award. If the CDFI Fund determines that any portion of the Application is incorrect in any material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the Application. There is no right to appeal the CDFI Fund's Award decisions. The CDFI Fund's Award decisions are final.

VII. Award Notice

A. Award Notification: The Authorized Representative and Point(s) of Contact for each successful Applicant will receive an email "notice of award" notification from the CDFI Fund stating that its Application has been approved for an Award. The email "notice of

award" is not an authorization to begin performance.

B. Application Debriefs: The Authorized Representative and Point(s) of Contact for each Applicant not selected for an award will receive an email with information on when a debriefing document will be provided in its AMIS account (<https://amis.cdfifund.gov>). The CDFI Fund will not discuss the specifics of an Applicant's FY 2026 SDL Program Application or provide specific reasons why an Applicant was not selected to receive a 2026 SDL Program Award beyond any information provided in the debriefing document.

The CDFI Fund will only respond to general questions regarding the FY 2026 SDL Program Application and award decision process until 30 days after the Award announcement date.

VIII. Post-Award Requirements and Administration

A. Administrative and National Policy Requirements. Prior to entering into an Assistance Agreement, the CDFI Fund may, in its discretion and without advance notice to the Applicant, terminate the Award or take other actions as it deems appropriate if

information (including an administrative error) comes to the CDFI Fund's attention that adversely affects the Recipient's eligibility for an Award; adversely affects the CDFI Fund's evaluation of the Application; adversely affects the Recipient's compliance with any requirement listed in the Uniform Requirements; or indicates fraud or mismanagement on the Recipient's part, including mismanagement of another Federal award. The CDFI Fund reserves the right, in its sole discretion, to rescind an Award if the Recipient fails to return the Assistance Agreement, signed by an Authorized Representative of the Recipient, and/or provide the CDFI Fund with any other requested documentation, within the CDFI Fund's deadlines.

If the Recipient, through merger or similar transaction, ceases to exist as a legal entity, the CDFI Fund may terminate and rescind the Assistance Agreement and the Award made under this NOFA. In addition, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the Award made under this NOFA for any criteria described in Table 11:

TABLE 11—CRITERIA THAT MAY RESULT IN AWARD TERMINATION PRIOR TO THE EXECUTION OF AN ASSISTANCE AGREEMENT

Criteria	Description
Failure to meet reporting requirements.	If a Recipient received a prior Award or Allocation under any CDFI Fund program and is not current on the reporting requirements set forth in the previously executed Assistance, Award, Allocation, Bond Loan Agreement(s), or Agreement to Guarantee as of the date of the notice of award, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a payment of SDL Program Award, until said prior Recipient or allocatee is current on the reporting requirements in the previously executed Award Agreement, Assistance Agreement, Allocation Agreement, Bond Loan Agreement, or Agreement to Guarantee. If such a prior Recipient or allocatee is unable to meet this requirement within the timeframe set by the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the notice of award and the SDL Program Award made under this NOFA. Please note that automated systems employed by the CDFI Fund for receipt of reports submitted electronically typically acknowledge only a report's receipt; such acknowledgment does not warrant that the report received was complete, nor that it met reporting requirements.
Pending resolution of Default or Noncompliance.	If a Recipient has pending noncompliance or default issues with any of its previously executed CDFI Fund Award Agreement, Assistance Agreements, Allocation Agreements, Bond Loan Agreements, or Agreements to Guarantee the CDFI Fund will delay entering into an Assistance Agreement until the CDFI Fund has made a final compliance determination. If said prior Recipient is unable to satisfactorily resolve the compliance issues, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the notice of award and the Award made under this NOFA.
Default or Noncompliance status	The CDFI Fund may delay entering into an Award Agreement with a Recipient if the CDFI Fund determines that the Recipient is noncompliant or in default with any previously executed Assistance Agreement, Award Agreement, Allocation Agreement, Bond Loan Agreement, or Agreement to Guarantee, and the CDFI Fund has provided written notification that the Recipient is ineligible to apply for or receive any future awards or allocations for a specified timeframe. Additionally, regardless of whether a sanction or remedy is imposed, the CDFI Fund will not consider an Application submitted by an Applicant if the default on a prior Allocation Agreement of the Applicant or an Affiliate occurs during the time period beginning 12 months prior to the Application deadline and execution of the FY 2026 Assistance Agreement. In such a circumstance the CDFI Fund may specify actions the Recipient must take to cure the noncompliance or default. If the Recipient is unable to cure the noncompliance or default within the timeframe specified by the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the Award made under this NOFA.

TABLE 11—CRITERIA THAT MAY RESULT IN AWARD TERMINATION PRIOR TO THE EXECUTION OF AN ASSISTANCE AGREEMENT—Continued

Criteria	Description
Noncompliance with Federal civil rights requirements.	If, within the period starting three years prior to this NOFA and through the date of the Award Agreement, the Recipient received a final determination, in any proceeding instituted against the Recipient in, by, or before any court, governmental, or administrative body or agency, declaring that the Recipient violated any Federal civil rights laws or regulations, including, but not limited to: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.); the Fair Housing Act (42 U.S.C. 3601 et seq.); the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107), and Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the CDFI Fund may terminate and rescind the Assistance Agreement and the Award made under this NOFA. The CDFI Fund will delay entering into an Assistance Agreement with a Recipient that has pending Title VI noncompliance issues if the CDFI Fund has not yet made a final compliance determination. If the Recipient is unable to satisfactorily resolve the Title VI noncompliance issues, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the Award made under this NOFA.
Safety and Soundness	If it is determined the Recipient is or will be incapable of meeting its award obligations, the CDFI Fund will deem the Recipient to be ineligible or require it to improve safety and soundness conditions prior to entering into an Award/Assistance Agreement.
Failure to maintain CDFI Certification.	A Recipient must be a Certified CDFI as is defined in the SDL Program Application and this NOFA, prior to entering into an Assistance Agreement. If, at any time prior to entering into an Assistance Agreement under this NOFA, a Recipient that is a Certified CDFI has submitted reports (or failed to submit an Annual Certification and Data Collection Report (ACR) and Transaction Level Report (TLR) as instructed by the CDFI Fund) to the CDFI Fund that demonstrate noncompliance with the requirements for CDFI Certification, but the CDFI Fund has yet to make a final determination regarding whether or not the entity is Certified, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Assistance Agreement and/or to delay making a Payment of SDL Program Award, pending full resolution, in the sole determination of the CDFI Fund, of the non-compliance. If the Recipient is unable to satisfactorily resolve the compliance issues, in the sole determination of the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the notice of award and the SDL Program Award made under this NOFA.

B. Assistance Agreement: The Authorized Representative and Point(s) of Contact for each Applicant that is selected to receive an Award under this NOFA will receive an email notification from the CDFI Fund stating an Assistance Agreement has been provided in its AMIS account. The Assistance Agreement must be fully executed by the Applicant's Authorized Representative and the CDFI Fund for the Applicant to become a Recipient and receive Payment. Each SDL Program Assistance Agreement has a 3-year Period of Performance. 1. The Assistance Agreement will set forth certain required terms and conditions of the SDL Program Award, which will include, but not be limited to: (a) The amount of the Award; (b) The approved uses of the Award; (c) performance goals; (d) Reporting requirements for all Recipients; and (e) The Assistance Agreement shall provide that the Awardee shall not, to the best of its knowledge and after reasonable diligence, provide any federal public benefit in a manner that violates applicable Federal anti-discrimination laws, including providing employment or financial preferences or set-asides based on any person's race, ethnicity, or sex, in a manner that is inconsistent with any applicable Federal anti-

discrimination laws. Additionally, the Awardee must adopt, implement, and maintain policies and procedures reasonably designed to ensure the Awardee's compliance with applicable Federal anti-discrimination laws. Annually, the Awardee shall certify the existence and administration of such policies and procedures and make them available for review upon request by the CDFI Fund. 2. Prior to executing the Assistance Agreement, the CDFI Fund may, in its discretion, allow Recipients to request changes to certain performance goals. The CDFI Fund, in its sole determination, may approve or reject these requested changes or propose other modifications, including a reduction in the Award amount. The CDFI Fund will only approve revised performance goals if it determines that such requested changes do not undermine the competitive process upon which the SDL Program Award determination was made. Any modifications agreed upon prior to the execution of the Assistance Agreement will become a condition of the Award. 3. If the Recipient fails to comply with the Assistance Agreement, the CDFI Fund may take actions including, but not limited to, the following: (a) require changes in the Recipient's performance goals; (b) revoke approval of the

Recipient's Application; (c) revoke approval of any other applications submitted to the CDFI Fund by the Recipient under any of the CDFI Fund's programs, and declare such applications to be ineligible; (d) reduce or terminate the Award; (e) require repayment of any SDL Program Assistance that has been paid to the Recipient pursuant thereto; (f) render the Recipient ineligible to apply for additional awards from the CDFI Fund through future funding rounds; (g) require the Recipient to convene a meeting(s) of its board of directors at which meeting(s) the CDFI Fund will be given the opportunity to address the attendees with respect to the CDFI Fund's evaluations and concerns regarding the performance of the Recipient under the Assistance Agreement; or (h) take such other actions as the CDFI Fund deems appropriate including, but not limited to, termination of CDFI Certification. 4. In addition to entering into an Assistance Agreement, each Applicant selected to receive an SDL Program Award must furnish to the CDFI Fund a Certificate of Good Standing from the jurisdiction in which it was formed. The CDFI Fund may, in its sole discretion, also require the Applicant to furnish an opinion from its legal counsel, the content of which may be further

specified in the Assistance Agreement, and which, among other matters, opines that: (a) The Recipient is duly formed and in good standing in the jurisdiction in which it was formed and the jurisdiction(s) in which it transacts business; (b) The Recipient has the authority to enter into the Assistance Agreement and undertake the activities that are specified therein; (c) The Recipient has no pending or threatened litigation that would materially affect its ability to enter into and carry out the activities specified in the Assistance Agreement; and (d) The Recipient is not

in default of its articles of incorporation or formation, bylaws or operating agreements, other organizational or establishing documents, or any agreements with the federal government.

C. Reporting. The CDFI Fund will require each Recipient that receives an SDL Program Award through this NOFA to account for and report to the CDFI Fund on the use of the SDL Program Award. This will require Recipients to establish administrative controls subject to the Uniform Requirements and other applicable OMB guidance. Following

payment, the CDFI Fund will collect information from each Recipient on its use of the SDL Program Award annually, and more often if deemed appropriate by the CDFI Fund, in its sole discretion. The CDFI Fund will provide guidance to Recipients outlining the format and content of the information required to describe how the funds were used.

The CDFI Fund may collect information from each Recipient including, but not limited to, an annual report with the components listed in Table 12:

TABLE 12—ANNUAL REPORTING REQUIREMENTS

Annual Certification and Data Collection Report (ACR).	All Recipients that are Certified CDFIs as of the date of the award announcement must submit the ACR to the CDFI Fund through AMIS (https://amis.cdfifund.gov) per the ACR reporting schedule. All Recipients that received their CDFI Certification after December 1, 2023, must also submit a TLR in conjunction with their ACR.
Financial Statement Audit Report (Non-profit Recipient including Insured Credit Unions and State-Insured Credit Unions).	A Non-profit Recipient (including Insured Credit Unions and State-Insured Credit Unions) must submit a Financial Statement Audit (FSA) Report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant, if any are prepared.
Financial Statement Audit Report (For-Profit Recipient).	Under no circumstances should this be construed as the CDFI Fund requiring the Recipient to conduct or arrange for additional audits not otherwise required under Uniform Requirements, any other laws, or otherwise prepared at the request of the Recipient or parties other than the CDFI Fund.
Financial Statement Audit Report (Depository Institution Holding Company and Insured Depository Institution).	For-profit Recipients must submit an FSA Report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant.
Single Audit Report (Non-Profit Recipients, if applicable).	If the Recipient is a Depository Institution Holding Company or an Insured Depository Institution, it must submit an FSA Report in AMIS.
Federal Financial Report/OMB Standard Form 425 (SF 425).	A non-profit Recipient must complete an annual Single Audit pursuant to the Uniform Requirements (see 2 CFR Subpart F-Audit Requirements) if it expends \$1,000,000 or in Federal awards in its fiscal year, or such other dollar threshold established by OMB pursuant to 2 CFR 200.501. If a Single Audit is required, it must be submitted electronically to the Federal Audit Clearinghouse (FAC) (see 2 CFR Subpart F-Audit Requirements in the Uniform Requirements at https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-F) and optionally through AMIS.
Uses of Award Report	The Recipient must annually submit the SF-425 Federal Financial Report to the CDFI Fund through AMIS to disclose how much of the SDL Program award funds were expended during the Federal government's fiscal year of October 1 through September 30.
Performance Progress Report	The Recipient must submit the Uses of Award Report to the CDFI Fund in AMIS. If the Recipient is a Depository Institution Holding Company that deploys all or a portion of its Financial Assistance through its Certified CDFI Subsidiary Insured Depository Institution, that Certified CDFI Subsidiary Insured Depository Institution must also submit a Uses of Award Report. Furthermore, if the Depository Institution Holding Company itself deploys any portion of the Award, the Depository Institution Holding Company must submit a Uses of Award Report.
	Recipient must submit the Performance Progress Report to the CDFI Fund. If the Recipient is a Depository Institution Holding Company that deploys all or a portion of its Award through its Certified CDFI Subsidiary Insured Depository Institution, all activity will be submitted in the Performance Progress Report.

Each Recipient is responsible for the timely and complete submission of the Annual Reporting Requirements. The CDFI Fund reserves the right to contact the Recipient and additional entities or signatories to the Assistance Agreement to request additional information and/or documentation. The CDFI Fund will use such information to monitor each Recipient's compliance with the requirements of the Assistance Agreement and to assess the impact of the SDL Program. The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements, including increasing the scope and

frequency of reporting, if it determines it to be appropriate and necessary. The CDFI Fund will notify Recipients before modifying any reporting requirements.

D. Financial Management and Accounting: The CDFI Fund will require Recipients to maintain financial management and accounting systems that comply with Federal statutes, regulations, and the terms and conditions of the Federal Award. These systems must be sufficient to permit the preparation of reports required by the CDFI Fund to ensure compliance with the requirements of the SDL Program, including the tracing of Award funds to

a level of expenditures adequate to establish that such Award funds have been used in accordance with Federal statutes, regulations, and the terms and conditions of the Federal Award. The cost principles used by Recipients must be consistent with Federal cost principles; must support the accumulation of costs as required by the principles; and must provide for adequate documentation to support costs charged to the SDL Program Award. In addition, the CDFI Fund will require Recipients to: maintain effective internal controls; comply with applicable statutes and regulations, the

Award/Assistance Agreement, and related guidance; evaluate and monitor compliance; take appropriate corrective action when not in compliance; and safeguard PII.

IX. Other Information

A. Revisions to Federal Funding Accountability and Transparency Act of 2006. Each Applicant that does not have an exception related to reporting subaward and executive compensation information under 2 CFR 170 must have the necessary processes and systems in place to comply with reporting requirements should they receive an Award.

B. Civil Rights and Equal Opportunity. Any person who is eligible to receive benefits or services from the CDFI Fund or Recipients under any of its programs is entitled to those benefits or services without being subject to prohibited discrimination. The Department of the Treasury's Office of Civil Rights and Equal Employment Opportunity enforces various Federal statutes and regulations that prohibit discrimination in financially assisted and conducted programs and in the activities of the CDFI Fund. If a person believes that s/he has been subjected to discrimination and/or reprisal s/he may file a complaint with: Director, Office of Civil Rights and Equal Employment Opportunity, 1500 Pennsylvania Ave NW, Washington, DC 20230 or crcomplaints@treasury.gov.

C. Fraud, Waste, and Abuse Prevention Notice. In accordance with Executive Order Establishing the Task Force to Eliminate Fraud (March 16, 2026), the CDFI Fund affirms that fraud, waste, and abuse is not tolerated across its programs. The CDFI Fund will work with the U.S. Department of the Treasury, the Presidential Task Force to Eliminate Fraud, the Department of Justice, and other applicable federal, state, and local stakeholders to identify and dismantle fraud, waste, and abuse.

All applicants, award recipients, and contractors are on notice that any misuse or fraudulent obtaining of federal funds will result in the maximum enforcement response available under the law, including award termination, repayment demands, suspension and debarment, and referral for civil and criminal prosecution under the False Claims Act (31 U.S.C. 3730). Suspected fraud, waste, or abuse should be reported to the Treasury Office of Inspector General at 1-800-359-3898 or www.oig.treas.gov.

D. Whistleblower Protections. An employee of a recipient or subrecipient must not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (a)(2) of 41 U.S.C. 4712 information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant. The recipient and subrecipient must inform their employees in writing of employee whistleblower rights and protections under 41 U.S.C. 4712.

E. Statutory and National Policy Requirements. The CDFI Fund must manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with the U.S. Constitution, Federal law, and public policy requirements.

F. Paperwork Reduction Act: Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information,

unless it displays a valid OMB control number. If applicable, the CDFI Fund may inform Applicants that they do not need to provide certain Application information otherwise required. Pursuant to the Paperwork Reduction Act, the SDL Program Application has been assigned the following control number: 1559-0036.

G. Application Information Sessions: The CDFI Fund may conduct webinars or host information sessions for organizations that are considering applying to, or are interested in learning about, the CDFI Fund's programs. For further information, please visit the CDFI Fund's website at <https://www.cdfifund.gov>.

Authority: Pub. L. 111-203, 12 U.S.C. 4719, 12 CFR part 1805, 12 CFR part 1815, 12 U.S.C. 4502.

Dated: June 26, 2026.

Luke J. Pettit,

Assistant Secretary for Financial Institutions.

[FR Doc. 2026-13200 Filed 6-29-26; 8:45 am]

BILLING CODE 4810-05-P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Funding Opportunities: Bank Enterprise Award Program (BEA) Program: FY 2026 Funding Round

Funding Opportunity Title: Notice of Funds Availability (NOFA) inviting Applications for the Fiscal Year (FY) 2026 Funding Round of the Bank Enterprise Award Program (BEA Program).

Announcement Type: Notice of Funds Availability.

Funding Opportunity Number: CDFI-2026-BEA.

Catalog of Federal Domestic Assistance (CFDA) Number: 21.021.

TABLE 1—FY 2026 BEA PROGRAM FUNDING ROUND ANTICIPATED CATEGORY AMOUNTS

Funding categories	Estimated total amount to be awarded * FY 2026	FY 2026 award amount		Estimated number of awards FY 2026	Estimated average amount to be awarded FY 2026	Average amount awarded in FY 2024
		Minimum **	Maximum			
Bank Enterprise Award Program	\$40,000,000	** \$10,000	\$600,000	180	\$220,000	\$234,357

* Funds for the FY 2026 Funding Round are based on the FY 2025 appropriations (Full-Year Continuing Appropriations and Extensions Act, 2025 (Pub. L. 119-4)).

** The CDFI Fund will not make awards below \$10,000.

Dates:

TABLE 2—FY 2026 BEA PROGRAM FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time (eastern time—ET)	Submission method
Last day to create an Awards Management Information System (AMIS) Account if Applicant does not have one (all Applicants).	07 24, 2026	11:59 p.m. ET	Web via AMIS at: https://amis.cdfifund.gov .
Last day to enter or update the Employer Identification Number (EIN) and Unique Entity Identifier (UEI) numbers in AMIS (all Applicants).	07 24, 2026	11:59 p.m. ET	Web via AMIS.
Last day to submit SF-424 Mandatory Form (Application for Federal Assistance) in <i>Grants.gov</i> (all Applicants).	07 24, 2026	11:59 p.m. ET	Web via <i>Grants.gov</i> at: https://www.grants.gov .
Last day to contact BEA Program staff with questions about the Application.	07 29, 2026	5:00 p.m. ET	Submit Service Request via AMIS using BEA for the program; call CDFI Fund Helpdesk: 202-653-0421; or email bea@cdfi.treas.gov .
Last day to contact Office of Compliance Monitoring and Evaluation (OCME) Help Desk with questions about Compliance.	07 29, 2026	5:00 p.m. ET	Submit Service Request via AMIS using “Compliance and Reporting” for the program; call OCME Helpdesk: 202-653-0423; or email ccme@cdfi.treas.gov .
Last day to contact Office of Certification Policy and Evaluation (OCPE) Help Desk with questions about CDFI Certification.	07 29, 2026	5:00 p.m. ET	Submit Service Request via AMIS using “Certification” for the program; call OCPE Helpdesk: 202-653-0423; or email ocpecert@cdfi.treas.gov .
Last day to contact AMIS-IT Help Desk (regarding AMIS technical issues only).	07 31, 2026	5:00 p.m. ET	Submit Service Request via AMIS using “Technical Issues” for the program; call AMIS Helpdesk: 202-653-0422; or email AMIS@cdfi.treas.gov .
Last day to submit BEA Program Application and Required Attachments (all Applicants).	07 31, 2026	11:59 p.m. ET	Web via AMIS.

Executive Summary: The CDFI Fund promotes economic revitalization and community development through investment in and assistance to CDFIs. The BEA Program awards formula-based grants to FDIC-insured banks or thrifts that have, during a specified period, (1) increased their levels of loans, investments, and Service Activities to residents and businesses in economically Distressed Communities; and/or (2) increased their financial assistance and Technical Assistance to Certified CDFIs through equity investments, equity-like loans, grants, stock purchases, loans, deposits, and

other forms of assistance. Capitalized terms in this NOFA are defined in the Authorizing Statute, the Interim Rule, this NOFA, the Application, Application materials, or the Uniform Administrative Requirements.

I. Agency Contact Information

Availability: The CDFI Fund will respond to questions and provide support concerning this NOFA and the Application between the hours of 9:00 a.m. and 5:00 p.m. ET, starting on the date of the publication of this NOFA until the close of business on the second business day preceding the Application

deadline. CDFI Fund IT support will be available until 5:00 p.m. ET on date of the Application deadline. The CDFI Fund will not respond to questions or provide support concerning the Application that are received after the stated deadlines in Table 2. Questions or issues with registration in *SAM.gov* (<https://www.sam.gov>) or registration or submission of the SF-424 in *Grants.gov* (<https://www.grants.gov>) must be directed to the *SAM.gov* and *Grants.gov* help desks as the CDFI Fund does not manage those systems. The following table lists contact information for the CDFI Fund, *Grants.gov* and *SAM.gov*:

TABLE 3—CONTACT INFORMATION

Type of question	Preferred method	Telephone number (not toll free)	Email addresses
BEA Program	Submit a Service Request in AMIS.	202-653-0421, option 1	BEA@cdfi.treas.gov .
Compliance Monitoring and Evaluation.	Submit a Service Request in AMIS.	202-653-0423	ccme@cdfi.treas.gov .
CDFI Certification	Submit a Service Request in AMIS.	202-653-0423	ocpecert@cdfi.treas.gov .
AMIS-IT Help Desk	Submit a Service Request in AMIS.	202-653-0422.	AMIS@cdfi.treas.gov
<i>Grants.gov</i> Help Desk	N/A	(800) 518-4726	support@grants.gov .
<i>SAM.gov</i> (Federal Service Desk) ..	N/A	(866) 606-8220	https://sam.gov/ .

The CDFI Fund's preferred method of contact is an AMIS Service Request. For a BEA Program Application question, select "BEA/SDLP" for the program in AMIS. For a CDFI Certification question, select "Certification." For a Compliance question, select "Compliance & Reporting." For Information Technology, select "Technical Issues." Failure to select the appropriate program for the Service Request could result in delays in responding to your question.

Reasonable Accommodations:

Requests for those with visual, auditory, or mobility impairments that prevent them from using the CDFI Fund's website, or who require reasonable accommodation under section 504 of the Rehabilitation Act, should contact

504support@cdfi.treas.gov or 202-653-0326 (this is not a toll-free number) as early as possible but no later than one week in advance of the Application deadline.

Communication with the CDFI Fund: The CDFI Fund will use AMIS to communicate with Applicants and Award Recipients under this NOFA. Award Recipients must also use AMIS to submit required reports. The CDFI Fund will notify Award Recipients by email using the addresses maintained in each Award Recipient's AMIS account. Therefore, an Award Recipient and any Subsidiaries, signatories, and Affiliates must maintain accurate contact information (including contact person and Authorized Representative, email addresses, fax numbers, phone numbers,

and office addresses) in their AMIS account(s). To help ensure important notifications from the CDFI Fund are not missed, Applicants and Award Recipients should make sure that their email service is not marking communications from AMIS@cdfi.treas.gov or replyd@cdfi.treas.gov as "junk" or "spam." For more information about AMIS please see the Help documents posted at <https://amis.cdfifund.gov/Training>.

II. Eligibility

A. Eligible Applicants: For the purposes of this NOFA, the following sets forth the eligibility criteria to receive a FY 2026 BEA Program Award from the CDFI Fund.

TABLE 4—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS

Applicant	Eligible Applicants for the BEA Program must be Insured Depository Institutions. An Insured Depository Institution, as defined in the BEA Program Interim Rule, is a bank or a thrift with deposits insured by the Federal Deposit Insurance Corporation. For the FY 2026 funding round, an Applicant must have been FDIC-insured as of the first day of the Baseline Period, January 1, 2024, and maintain its FDIC-insured status at the time of Application submission. The depository institution holding company of an Insured Depository Institution may not apply on behalf of an Insured Depository Institution. Applications received from depository institution holding companies will be disqualified. An Applicant must be duly organized as a legal entity (within the United States or its territories). The Applicant must provide all required information as directed in the Application Instructions. Only the entity that will carry out the proposed award activities may apply for an award. An Applicant that applies on behalf of another organization will be rejected without further consideration.
CDFI Program Applicants and Recipients	No Applicant may be selected for an FY 2026 BEA Program Award, either directly or through a community partnership, if it has: (1) an application pending for assistance under the CDFI Program at the time of BEA Award decisions; or (2) been awarded assistance under the CDFI Program within the 12-month period prior to the Federal Award Date of the FY 2026 BEA Program Award Agreement.
Employer Identification Number (EIN)	Applicants must have a unique EIN assigned by the Internal Revenue Service (IRS). For further EIN requirements, see Section V.
System for Award Management (SAM) and Unique Entity Identifier (UEI). Grants.gov Account	Applicants must have an active SAM.gov account (https://www.sam.gov). Applicants that have an active SAM registration have been assigned a Unique Entity Identifier (UEI). For further SAM and UEI requirements, see Section V. Applicants must have an active Grants.gov account (https://www.grants.gov) and submit the SF-424 through Grants.gov. For further Grants.gov information and the SF-424 submission requirements, see Section V.
Awards Management Information System (AMIS) Account.	Each Applicant must register as an organization in the CDFI Fund's Awards Management Information System (AMIS) and submit all required Application materials through the AMIS portal (https://amis.cdfifund.gov). For further AMIS account and Application submission requirements, see Section V.
501(c)(4) status	Pursuant to 2 U.S.C. 1611, any 501(c)(4) organization that engages in lobbying activities is not eligible to receive an award under this NOFA.
Compliance with Other Statutes, Regulations, and Executive Orders.	An Applicant may not be eligible to receive an award if proceedings have been instituted against it in, by, or before any court, governmental agency, or administrative body, and a final determination was made within the time period beginning three years prior to the publication of this NOFA through the execution of the Award Agreement, declaring that the Applicant violated any Federal laws or regulations, including, but not limited, to Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d <i>et seq.</i>); the Fair Housing Act (42 U.S.C. 3601 <i>et seq.</i>); the Equal Credit Opportunity Act (15 U.S.C. 1691 <i>et seq.</i>); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101-6107); Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 <i>et seq.</i>); and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as described in the Executive Order titled, "Ending Taxpayer Subsidization of Open Borders".
Regulator Feedback and Financial Audit Requirements.	To be eligible for an Award, each Applicant must meet all requirements outlined in Section VI, including CAMELS and CRA ratings, financial audit with a going concern paragraph, a Prompt Corrective Action, and material concerns identified by the regulator.
Use of Award	All Awards made through this NOFA must be used on Eligible Activities defined in 12 CFR 1806.300. Awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to third-party entities—whether Affiliates, Subsidiaries, or others—unless done pursuant to a merger, acquisition, or similar transaction after the execution of the Award Agreement and with the CDFI Fund's prior written consent. The Recipient of any Award made through this NOFA must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301-8303 and section 2 CFR 200.216 of the Uniform Administrative Requirements, with respect to any Direct Costs.
Pending Resolution of Noncompliance or Default.	If an Applicant, or Affiliate of an Applicant identified in AMIS, that is a prior Award Recipient or Allocatee under any CDFI Fund program: (i) has demonstrated it is in noncompliance with or default of a previous Assistance Agreement, Award Agreement, Allocation Agreement, Bond Loan Agreement, or Agreement to Guarantee and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in noncompliance with or default of its previous agreement, the CDFI Fund will consider the Applicant's Application under this NOFA pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance or default.

TABLE 4—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS—Continued

Noncompliance or Default Status	The CDFI Fund will not consider an Application submitted by an Applicant that is a prior CDFI Fund Award Recipient or Allocatee under any CDFI Fund program if, as of the AMIS Application deadline in this NOFA, (i) the CDFI Fund has made a final determination in writing that such Applicant (or Affiliate of an Applicant identified in AMIS) is in noncompliance with or default of a previously executed Assistance Agreement, Award Agreement, Allocation Agreement, Bond Loan Agreement, or Agreement to Guarantee, and (ii) the CDFI Fund has provided written notification that such entity is ineligible to apply for or receive any future CDFI Fund awards or allocations. Such entities will be ineligible to submit an Application for such time period as specified by the CDFI Fund in writing. Additionally, regardless of whether a sanction or remedy is imposed, the CDFI Fund will not consider an Application submitted by an Applicant if the default on a prior Allocation Agreement of the Applicant or an Affiliate occurs during the period beginning 12 months prior to the Application deadline and ending with the FY 2026 Award announcement. The CDFI Fund will not consider any Applicant that has defaulted on a loan from the CDFI Fund within five years of the Application deadline.
Debarment/Do Not Pay Verification	The CDFI Fund will conduct a debarment check on the Applicant. The CDFI Fund will not consider any Applicant that is debarred. The Do Not Pay Business Center was developed to support Federal agencies in their efforts to reduce the number of improper payments made through programs funded by the Federal Government. The Do Not Pay Business Center provides delinquency and debarment information to the CDFI Fund. If the Do Not Pay Business Center reports that the Applicant has a pending or delinquent debt to the Federal government, the Applicant will be required to demonstrate that it has resolved such pending or delinquent debt. Applicants that fail to demonstrate resolution of the pending or delinquent Federal debt in the timeframe specified by the CDFI Fund will be found ineligible to receive an award.

III. Program Description

A. The general purpose: The BEA Program provides grant awards to FDIC-insured banks and thrifts (collectively referred to as banks for purposes of this NOFA) for increasing their investments in and support of CDFIs and advancing their community development financing and service activities in the most economically Distressed Communities.

B. Program goals and objectives: The BEA Program encourages banks to increase their community development activities by providing financial incentives to expand investments in CDFIs and to increase lending, investments, and Service Activities within Distressed Communities, as follows:

(i). *Baseline Period and Assessment Period Dates:*

A BEA Program Award is based on an Applicant's increase in Qualified Activities from the Baseline Period to the Assessment Period, as reported on an individual transaction basis in the Application. For the FY 2026 funding round, the Baseline Period is January 1, 2024, through December 31, 2024, and the Assessment Period is January 1, 2025, through December 31, 2025.

(ii) *Qualified Activities:* Qualified Activities are defined in the Interim Rule to include CDFI Related Activities, Distressed Community Financing Activities, and Service Activities (12 CFR 1806.103). CDFI Related Activities (12 CFR 1806.103) means Equity Investments, Equity-Like Loans, and CDFI Support Activities. The CDFI Equity sub-category consists of Equity Investments, Equity-Like Loans, and Grants. CDFI Support Activities includes Certificates of Deposits, Loans, and Technical Assistance. Distressed Community Financing Activities (12 CFR 1806.103) means Consumer Loans

and Commercial Loans and Investments. Consumer Loans include Affordable Housing Loans, Education Loans, Home Improvement Loans, and Small Dollar Consumer Loans. Commercial Loans and Investments includes Affordable Housing Development Loans and related Project Investments, Commercial Real Estate Loans and related Project Investments, and Small Business Loans and related Project Investments. Service Activities (12 CFR 1806.103) include Deposit Liabilities, Financial Services, Community Services, Targeted Financial Services, and Targeted Retail Savings/Investment Products. When calculating BEA Program Award amounts, the CDFI Fund will only consider the amount of a Qualified Activity that has been fully disbursed, subject to the requirements outlined in Section VI of this NOFA. An activity funded with prior BEA Program Award dollars or funded to satisfy requirements of an Award Agreement from a prior BEA Program Award or an agreement under any CDFI Fund program, shall not constitute a Qualified Activity for the purposes of calculating or receiving an award under this NOFA.

(iii) *Distressed Community:* A Distressed Community must meet certain minimum geographic area and eligibility requirements, which are defined in the Interim Rule in 12 CFR 1806.103 and more fully described in 12 CFR 1806.401: <https://www.ecfr.gov/current/title-12/section-1806.401>. Please note that a Distressed Community, as defined by the BEA Program, is not the same as an Investment Area as defined by the CDFI Program, a Low-Income Community as defined by the NMTC Program, or an Area of Economic Distress as defined by the Capital Magnet Fund Program.

(a) *Designation of Distressed Community by a CDFI Partner:* CDFI

Partners that receive CDFI Support Activities in the form of loans, Technical Assistance, or deposits from an Applicant must be integrally involved in a Distressed Community. Applicants must attest that each CDFI Partner that is the recipient of CDFI Support Activities is integrally involved in a Distressed Community, as explained in the Application Instructions. CDFI Partners that receive Equity Investments, Equity-Like Loans, or Grants are not required to demonstrate Integral Involvement. Additional information on Integral Involvement can be found in Section V of this NOFA.

(b) *Distressed Community Determination by a BEA Applicant:* Applicants applying for a BEA Program Award for performing Distressed Community Financing Activities or Service Activities must verify that addresses of both Baseline Period and Assessment Period activities are in Distressed Communities when completing their Application. Applicants shall determine that an area is a Distressed Community by selecting a census tract where the Qualified Activity occurred that meets the minimum area and eligibility requirements. To determine whether a Baseline Period activity or Assessment Period activity is in a qualified Distressed Community, Applicants should use (1) Excel tabular data; or (2) the CDFI Information Mapping System (CIMS). For more information on these tools please refer to the FY 2026 BEA Program Application Instructions.

C. Funding Priorities: The CDFI Fund has identified funding priorities related to the Applicant's CDFI status and asset size. For award estimate purposes, CDFI Applicants are prioritized over non-CDFI Applicants. Applicants with smaller asset sizes are prioritized over

Applicants with larger asset sizes. Additional information about how priority factors are used to determine estimated award amounts is provided below and in Table 6.

(i) *CDFI Applicant*: Except for equity investments, the award percentage used to estimate the award amount for Applicants that are CDFIs is three times greater than the award percentage used to derive the estimated award amount for Applicants that are not CDFIs. The award percentage applied for CDFI and non-CDFI Applicants is based on activity type. For example, for consumer transactions, for a CDFI Applicant, an award percentage of 18% would be applied and an award percentage of 6% would be applied for a non-CDFI Applicant. For commercial transactions, an award percentage of 9% would be

applied for CDFI Applicants and 3% for non-CDFI Applicants. For the FY 2026 BEA funding round, an eligible Certified CDFI Applicant (“CDFI Applicant”) is an Insured Depository Institution that is one of the following: (1) is certified as a CDFI as of December 31, 2025 (end of the Assessment Period) and remains certified at the time the BEA Program Awards are announced; OR (2) has submitted a CDFI Certification Application by December 31, 2025 and receives its status as a Certified CDFI by the time of the FY 2026 BEA Program Award announcement.

(ii) *Asset Size Priority Factors*: Asset Size Priority Factors will be assigned based on the Applicant’s asset size as of the end of the Assessment Period (December 31, 2025), based on FDIC data. Asset size classes (*i.e.*, small,

intermediate, and large institutions) will correspond to the Community Reinvestment Act (CRA) asset size classes set by the three Federal bank regulatory agencies and that were in effect as of the end of the Assessment Period.

(a) The Asset Size Priority Factor (*i.e.*, 5, 3, or 1) is multiplied by the change in a Qualified Activity and then multiplied by the applicable Award percentage (3%, 6%, 9%, or 18%) to yield the Award amount for that activity.

(b) Asset Size Priority Factors will be applied to Distressed Community Financing Activities and Service Activities categories as outlined in Table 5:

TABLE 5—ASSET SIZE PRIORITY FACTORS

CRA asset size classification	Asset size as of 12/31/2025	Asset size priority factor
Small institutions	less than \$412 million	5
Intermediate institutions	at least \$412 million but less than \$1.649 billion	3
Large institutions	\$1.649 billion or greater	1

An Applicant’s Asset Size and CDFI Applicant status for each Activity Type

determine the estimated Award Amount. Table 6 outlines how the

estimated Award Amount is determined.

TABLE 6—PRIORITY FACTORS AND ESTIMATED AWARD AMOUNT

(\$) Increase in qualified activities	Multiply by	Award %	Multiply by	Asset size priority factor	Equals	Estimated award amount
		CDFIs or non-CDFIs				
CDFI Related Activities:						
Equity	×	18%	×	N/A	=	\$
Support		18% or 6%.				
Distressed Community Financing Activities:						
Commercial	×	9% or 3%	×	Small—5	=	\$
Consumer		18% or 6%		Intermediate—3		
				Large—1		
Service Activities	×	9% or 3%	×	Small—5	=	\$
				Intermediate—3		
				Large—1		

(iii) *Final Award Amount*

Determination: After the preliminary award amounts are determined, the CDFI Fund calculates the maximum award size (*i.e.* award ceiling) to ensure all Applications with a preliminary award of \$10,000 or greater are funded. The award ceiling is then applied, ensuring no Applicant’s award is above the established ceiling. For example, if, after the review phase, an Applicant’s preliminary award amount is \$500,000, but the award ceiling is \$475,000, the Applicant’s final award amount would be \$475,000.

(iv) *Persistent Poverty Counties*:

Congress has mandated that at least 10 percent of the CDFI Fund’s appropriations be directed to counties that meet the criteria for “Persistent Poverty” designation. Persistent Poverty Counties (PPCs) are defined as any county, including county equivalent areas in Puerto Rico, that has had 20 percent or more of its population living in poverty over the past 30 years as measured by the 1990, 2000, and 2010 decennial censuses and the 2016–2020 5-year data series available from the American Community Survey of the Census Bureau; or any other territory or

possession of the United States that has had 20 percent or more of its population living in poverty over the past 30 years as measured by the 1990, 2000, and 2010 Island Areas Decennial Censuses, or equivalent data, of the Bureau of the Census and published by the CDFI Fund at: https://www.cdfifund.gov/system/files?file=2024-05/PPC_2020_ACS_May_10_2024.xlsx. Applicants that apply under this NOFA will be required to indicate the percentage of the BEA Program Award that the Applicant will commit to investing in PPCs.

D. Performance Goals for Recipients: BEA Program Award Recipients' performance goals will be:

(i) to use the BEA Program Award amount for Eligible Activities described in the Award Agreement; and

(ii) for those Award Recipients committed to serving PPCs in their Application, a Performance Goal for their PPC commitment will be incorporated into their Award Agreement. The performance period is one year. The Award Recipient may use up to 15 percent of the total BEA Program Award amount as Direct Administrative Expenses. "Direct Administrative Expenses" shall mean Direct Costs, as described in section 2 CFR 200.413 of the Uniform Administrative Requirements, which are incurred by the Award Recipient to carry out the Qualified Activities.

E. Unallowable costs: Indirect Costs are not an allowable use of funds. "Indirect Costs" means costs or expenses defined in accordance with section 2 CFR 200.1 of the Uniform Administrative Requirements. In addition, the Award Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 and section 2 CFR 200.216 of the Uniform Administrative Requirements, with respect to any Direct Costs.

F. Authorizing statutes and regulations: Relevant statutes and

regulations for the BEA Program include: (i). Bank Enterprise Act of 1991 (Pub. L. 102–242) (the Authorizing Statute) <https://www.govinfo.gov/content/pkg/COMPS-10658/pdf/COMPS-10658.pdf> (ii). 12 CFR part 1806 (the Interim Rule) <https://www.ecfr.gov/current/title-12/chapter-XVIII/part-1806> (iii) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 1000) (Uniform Requirements or Uniform Administrative Requirements <https://www.ecfr.gov/current/title-2/subtitle-B/chapter-X/part-1000>) The CDFI Fund encourages Applicants to review the Interim Rule; this NOFA; the BEA Program Application Instructions; all related Application materials and guidance documents found on the CDFI Fund's website (<https://www.cdfifund.gov/programs-training/programs/bank-enterprise-award/apply-step#application-materials>), and the Uniform Administrative Requirements for a complete understanding of the BEA Program.

IV. Application Contents and Format

The CDFI Fund has a sequential, two-step application process that requires the submission of Application documents in two separate systems with

two separate deadlines. The required Application documents are listed in Table 7 below. The Application submission deadlines for all Application components are listed in Table 2. Additional information regarding mandatory account access, how to submit all components of the Application through *Grants.gov* (<https://www.grants.gov>) and AMIS (<https://amis.cdfifund.gov>) and Authorized Representative signature requirements for the Application is provided in Section V of this NOFA. All Application materials can be found on *Grants.gov* and the CDFI Fund's website at <https://www.cdfifund.gov/programs-training/programs/bank-enterprise-award/apply-step#application-materials>. All Applications should be prepared using the English language, and calculations must be computed in U.S. dollars. The CDFI Fund reserves the right to request and review other pertinent or public information that has not been specifically requested in this NOFA or the Application. Information submitted by the Applicant that the CDFI Fund has not specifically requested will not be reviewed or considered as part of the Application. Information provided in the Application should only include the Applicant's activities. Information submitted must accurately reflect the Applicant's activities.

TABLE 7—REQUIRED APPLICATION COMPONENTS

Application components	Applicant type	Submission format
Active AMIS Account	All Applicants	AMIS.
SF-424	All Applicants	Fillable PDF in <i>Grants.gov</i> .
FY 2026 BEA Program AMIS Application and Required Attachments per the Application Instructions.	All Applicants	AMIS.

V. Submission Requirements and Deadlines

A. How To Find or Request Application Materials

The Application materials can be found on *Grants.gov* and the CDFI Fund's website at www.cdfifund.gov/bea. The CDFI Fund may update the Application materials as necessary during the Application round. Applicants are encouraged to pay attention to the CDFI Fund's website for updated resources. If an Applicant is unable to access *Grants.gov* (<https://www.grants.gov/>) or the CDFI Fund's website, the Applicant may request a paper version of any Application material by contacting the CDFI Fund Help Desk by email at bea@cdfi.treas.gov or by phone at (202) 653–0421. A paper version of Application

materials will only be provided if an Applicant cannot access *Grants.gov* (<https://www.grants.gov/>) or the CDFI Fund's website. Additionally, the SF-424 must be submitted through *Grants.gov* and all other Application documents must be submitted through the AMIS portal (<https://amis.cdfifund.gov>). The CDFI Fund will not accept Applications via e-mail, mail, facsimile, or other forms of communication, except in extremely rare circumstances that have been pre-approved by the CDFI Fund.

B. Submission Dates and Times: Table 2 in Section I lists the deadlines for submission of the documents related to the FY 2026 BEA Program funding round.

C. Submission Instructions: The CDFI Fund has a sequential, two-step process that requires the submission of

Application documents in separate systems with two separate deadlines. The SF-424 must be submitted through *Grants.gov* and all other Application documents through the AMIS portal. The required Application components are outlined in Section IV. The separate Application deadlines for the SF-424 and all other Application materials are listed in Table 2.

D. System for Award Management (SAM.gov) and Unique Entity Identifier (UEI): Any entity applying for Federal financial assistance must first register in *SAM.gov* (<https://www.sam.gov>). When accessing *SAM.gov*, users will be asked to create a *login.gov* user account (if they do not already have one). Going forward, users will use their *login.gov* username and password every time when logging into *SAM.gov*. The UEI, generated in *SAM.gov*, is the official

identifier for doing business with the Federal government. If an entity is registered in *SAM.gov* today, its UEI has already been assigned and is viewable in *SAM.gov*, including inactive registrations. New registrants will be assigned a UEI as part of their *SAM.gov* registration. Applicants will be required to provide a valid UEI in AMIS (see Table 9). All entities registered in *SAM.gov* must have an authorized entity administrator. *SAM.gov* requires that new registrants, and existing registrants that do not have an entity administrator, mail an original, signed notarized letter identifying the authorized entity administrator for the entity to the Federal Service Desk. Existing entities with registered entity administrators do not need to submit an annual notarized letter. Visit *SAM.gov* for more information about this requirement. Applicants that have previously

completed the *SAM.gov* registration process must verify that their *SAM.gov* accounts are current and active. Applicants are required to maintain a current and active *SAM.gov* account at all times during which they have an active Federal award or an Application under consideration for an award by a Federal agency. The *SAM.gov* registration process can take four weeks or longer to complete, so Applicants are strongly encouraged to begin the registration as soon as possible to avoid potential Application submission issues. The CDFI Fund will not consider any Applicant that fails to properly register or activate its *SAM.gov* account and, as a result, is unable to submit its Application by the Application deadline. Additionally, the CDFI Fund reserves the right to deem an Application ineligible or terminate an award if the Applicant's SAM account

expires during the Application evaluation and post-award process, and the Applicant does not re-activate or renew (as applicable) the account by the CDFI Fund's requested deadlines. Applicants must contact *SAM.gov* directly with questions related to the registration process as the CDFI Fund does not maintain this system.
E. Grants.gov Submission Information: The CDFI Fund strongly encourages Applicants to start the *Grants.gov* registration process as soon as possible, as it may take one week or more to complete (refer to the following link: <http://www.grants.gov/register>). An Applicant that has previously registered with *Grants.gov* must verify that its registration is current and active. If an Applicant has not previously registered with *Grants.gov*, it must first successfully register in *SAM.gov*, as described above.

TABLE 8—GRANTS.GOV REGISTRATION TIMELINE SUMMARY

Step	Agency	Estimated minimum time to complete
Obtain an EIN	Internal Revenue Service (IRS)	Two (2) Weeks.*
Register in <i>SAM.gov</i>	System for Award Management (<i>SAM.gov</i>). This step will include obtaining a UEI..	Four (4) Weeks.*
Register in <i>Grants.gov</i>	<i>Grants.gov</i>	One (1) Week.**

* Applicants are advised that the stated durations are estimates only and represent minimum timeframes. Actual timeframes may take longer. The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account, has not yet received a UEI number, and/or fails to properly register in *Grants.gov*.
** This estimate assumes an Applicant has a UEI number, an EIN number, and is already registered in *SAM.gov*.

Once registered, Applicants are strongly encouraged to submit the SF-424 as early as possible through *Grants.gov* to provide sufficient time to resolve any potential submission issues. Each Applicant will receive an initial email from *Grants.gov* immediately after submitting the SF-424, confirming that the submission has entered the *Grants.gov* system. This email will contain a tracking number for the submitted SF-424. Within forty-eight (48) hours, the Applicant will receive a second email which will indicate if the submitted SF-424 was either successfully validated or rejected with errors. However, Applicants should not rely on the email notification from *Grants.gov* to confirm that their SF-424 was validated. Applicants are strongly encouraged to use the tracking number provided in the first email to closely monitor the status of their SF-424 by checking *Grants.gov* directly. The Application materials submitted in AMIS are not accepted by the CDFI Fund until *Grants.gov* has validated the SF-424. In the *Grants.gov* Workspace function, please note that the Application package has not been

submitted if you have not received a tracking number. Applicants should contact *Grants.gov* directly with questions related to the registration or submission process, as the CDFI Fund does not administer the *Grants.gov* system.
F. AMIS Registration Information: AMIS is a web-based portal where Applicants will directly enter their Application information and upload required attachments listed in Table 7. Each Applicant must register as an organization in AMIS by the deadline in Table 2 to submit the required Application materials through this portal. An Applicant that fails to properly register and/or update its AMIS account may miss important communications from the CDFI Fund or fail to submit an Application successfully.
G. Authorized Representative Signature and AMIS Requirements: Prior to submission, each Application in AMIS must be signed by an Authorized Representative. An Authorized Representative is an employee or officer of the Applicant organization and has the authority to legally bind and make representations on behalf of the

Applicant; it cannot be a consultant. The Authorized Representative must be a “user” in AMIS and included as a “Contact” in the Applicant’s AMIS account.
H. AMIS Application Point(s) of Contact: AMIS Application point(s) of contact will be included on any communication from the CDFI Fund regarding the Application. Application point(s) of contact can submit the Application but cannot sign the Application. Consultants working on behalf of the Applicant cannot be designated as Authorized Representatives but can be designated as Application point(s) of contact.
I. AMIS Application Submission Requirements: AMIS will verify that the Applicant provided the minimum information required to submit an Application. Applicants are responsible for the quality and accuracy of the information and attachments included in the Application submitted in AMIS. The CDFI Fund strongly encourages the Applicant to allow sufficient time to confirm the Application content, review the material submitted, and remedy any issues prior to the Application deadline. Only an Authorized Representative for

the organization or an Application Point of Contact can submit the Application in AMIS. Upon submission, the Application will be locked and cannot be resubmitted, edited, or modified in any way. The CDFI Fund will not unlock a submitted Application. The

following table lists the mandatory accounts and steps required to successfully submit the FY 2026 BEA Program Application documents through *Grants.gov* and AMIS. The separate Application deadlines for the SF-424 and the submission of all other

Application materials are listed in Table 2. The CDFI Fund strongly encourages Applicants to complete all *Grants.gov* and AMIS Application submission steps as early as possible to provide sufficient time to resolve any potential submission issues.

TABLE 9—ACCOUNT AND APPLICATION SUBMISSION REQUIREMENTS FOR ALL APPLICANTS

Employer Identification Number (EIN)	Applicants must have a unique EIN assigned by the Internal Revenue Service (IRS). Applicants must enter their EIN into their AMIS profile on or before the deadline specified in Table 2. The EIN in the Applicant's AMIS account must match the EIN in the Applicant's System for Award Management (SAM) account. The CDFI Fund reserves the right to reject an Application if the EIN in the Applicant's AMIS account does not match the EIN in its SAM account. The CDFI Fund will reject an Application submitted with the EIN of a parent or Affiliate organization.
System for Award Management (SAM)	Applicants must complete registration in <i>SAM.gov</i> to be able to complete their <i>Grants.gov</i> registration and submit an SF-424. Applicants must have an EIN to register in <i>SAM.gov</i>. Applicants that have an active SAM registration have been assigned a Unique Entity Identifier (UEI). See <i>SAM.gov</i> for more information. The SAM registration process can take 30 days or more to complete. The CDFI Fund strongly encourages Applicants to register as early as possible to meet the deadlines in Table 2.
Unique Entity Identifier (UEI)	Applicants must enter their UEI number into their AMIS profile on or before the deadline specified in Table 2. The UEI number in the Applicant's AMIS account must match the UEI number in the Applicant's <i>Grants.gov</i> and SAM accounts. The CDFI Fund will reject an Application if the UEI number in the Applicant's AMIS account does not match the UEI number in its <i>Grants.gov</i> and SAM accounts. The CDFI Fund will reject an Application submitted with the UEI number of a parent or Affiliate organization.
<i>Grants.gov</i> Account	Applicants must submit the Office of Management and Budget (OMB)-approved Standard Form (SF) 424 Mandatory (Application for Federal Assistance) form in <i>Grants.gov</i>. The SF-424 must be submitted under the FY 2026 BEA Program Funding Round (CDFI-2026-BEA) Funding Opportunity Number. Applicants must have an existing <i>SAM.gov</i> registration to register in <i>Grants.gov</i>. The <i>Grants.gov</i> registration process can take one week or more to complete. The CDFI Fund strongly encourages Applicants to register as early as possible to meet the deadlines in Table 2. See <i>Grants.gov</i> for more information. The SF-424 must be submitted in <i>Grants.gov</i> before the other Application materials are submitted in AMIS. If the SF-424 is not accepted by <i>Grants.gov</i> by the applicable deadline, the Applicant will not be able to submit the AMIS Application. The CDFI Fund will not extend the SF-424 application deadline for any Applicant that started the <i>Grants.gov</i> registration process on, before, or after the date of the publication of this NOFA, but did not complete it by the deadline, except in the case of a Federal government administrative or technological error that directly resulted in preventing an Applicant from submitting the SF-424 by the required deadline.
AMIS Account	Each Applicant must register as an organization in the CDFI Fund's Awards Management Information System (AMIS) and submit all required Application materials through the AMIS portal. The Applicant's Authorized Representative and Application Point of Contact must be included as "users" in the Applicant's AMIS account. If the Applicant does not complete the registration for its organization in AMIS by the deadline set forth in Table 2, its Application will be rejected without further consideration. The CDFI Fund will not extend the AMIS account creation deadline for any Applicant that failed to properly register and update its AMIS account by the deadline except in the case of a Federal government administrative or technological error that directly resulted in preventing an Applicant from creating the account.
Application submission through <i>Grants.gov</i> and Awards Management Information System	Applicants must submit the Required Application Documents listed in Table 7. The CDFI Fund will only accept Applications that use the official Application templates provided on the <i>Grants.gov</i> and AMIS websites. Applications submitted with alternative or altered templates will not be considered. Applicants undergo a two-step process that requires the submission of Application documents by two separate deadlines in two different locations: (1) the SF-424 in <i>Grants.gov</i> and (2) all other Required Application Documents in AMIS. <i>Grants.gov</i> and the Standard Form 424 (SF-424): The SF-424 must be submitted in <i>Grants.gov</i> on or before the deadline listed in Table 2. Applicants are strongly encouraged to submit their SF-424 as early as possible in the <i>Grants.gov</i> portal. Because the SF-424 is part of the Application, if the SF-424 is not accepted by <i>Grants.gov</i> by the applicable deadline, the Applicant will not be able to submit the AMIS Application. The deadline for the <i>Grants.gov</i> submission is before the AMIS submission deadline.

TABLE 9—ACCOUNT AND APPLICATION SUBMISSION REQUIREMENTS FOR ALL APPLICANTS—Continued

	AMIS and all other Required Application Documents listed in Table 7: All Required Application Documents must be submitted in AMIS on or before the deadline specified in Table 2. Applicants are only allowed one BEA Program Application submission in AMIS. Each Application in AMIS must be signed by an Authorized Representative. Applicants must ensure that the Authorized Representative is an employee or officer of the Applicant, authorized to sign legal documents on behalf of the organization. Consultants working on behalf of the organization may not be designated as Authorized Representatives. Only the Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS. The CDFI Fund will not extend the AMIS Application submission deadline for any Applicant except in the case of a Federal government administrative or Federal technological error that directly resulted in preventing the submission of the Application in AMIS by the deadline.

J. Multiple Application Submissions: Each Applicant is only permitted to submit one complete Application in AMIS. The CDFI Fund will not allow multiple AMIS Application submissions. However, the CDFI Fund does not administer *Grants.gov*, which does allow for multiple submissions of the SF-424. If an Applicant submits multiple SF-424 Applications in *Grants.gov*, the CDFI Fund will only review the SF-424 Application submitted in *Grants.gov* that is attached to the AMIS Application.

K. Late Submission or AMIS Account Creation: The CDFI Fund will not accept an Application if the SF-424 is not submitted and accepted by *Grants.gov* by the SF-424 deadline listed in Table 2. Additionally, the CDFI Fund will not accept an Application if it is not signed by an Authorized

Representative and submitted in AMIS by the Application deadline listed in Table 2. The CDFI Fund will also not accept an Application from an Applicant that failed to create an AMIS account by the deadline specified in Table 2. In these cases, the CDFI Fund will not review any material submitted, and the Application will be deemed ineligible. However, in cases where a Federal government administrative or technological error directly resulted in preventing an Applicant from submitting the SF-424, the Application, or creating an AMIS account by the deadlines stated in this NOFA, the Applicant must submit a written request for acceptance of late submissions by the deadline specified in Table 10. Be aware that an unexpected delay in a Federal government process does not in

and of itself constitute a Federal government administrative or technological error. The CDFI Fund will only approve the late submission of the SF-424, the Application, or the late creation of an AMIS account, if the Applicant demonstrates that an unexpected delay was the direct result of a Federal government administrative or technological error. The written request must be submitted to the CDFI Fund as an AMIS Service Request with the subject line as specified in Table 10, and the request must include documentation of the Federal government administrative or technological error acceptable to the CDFI Fund. Table 10 below outlines the deadlines and AMIS Service Request requirements for requesting a late submission:

TABLE 10—REQUESTS FOR LATE SUBMISSION OR ACCOUNT CREATION

Late submission or account creation request	Deadline to submit AMIS Service Request	Deadline time for AMIS Service Request (Eastern Time—ET)	AMIS Service Request subject line
Creation of AMIS Account	07 27, 2026	11:59 p.m. ET	BEA Program—AMIS Account Creation Deadline Extension Request.
SF-424	07 27, 2026	11:59 p.m. ET	BEA Program—Late SF-424 Submission Request.
AMIS Application	08 03, 2026	11:59 p.m. ET	BEA Program—Late Application Submission Request.

VI. Application Review Information

A. Responsiveness Review. If the Applicant has submitted an eligible Application, the CDFI Fund will conduct a substantive review in accordance with the criteria and procedures described in the Interim Rule, this NOFA, the Application guidance, and the Uniform Administrative Requirements. The CDFI Fund reserves the right to contact the Applicant by telephone, email, or mail for the purpose of clarifying or confirming Application information. If contacted, the Applicant must respond within the period communicated by the CDFI Fund or risk that its Application

will be rejected. The CDFI Fund will review the BEA Program Application in accordance with the process below. All Application reviewers will complete the CDFI Fund’s conflict of interest process.

B. Qualified Activities Criteria and Requirements. Applicants may submit transactions for Qualified Activities for the categories outlined below. Applicants must provide all required transaction information in the AMIS Application as required in this NOFA and the FY 2026 BEA Program Application Instructions. If an Applicant fails to provide the mandatory information for a transaction, the transaction will be deemed ineligible for the purposes of calculating

the BEA Program Award amount. During the review process, transactions are reviewed to confirm transactions meet the criteria outlined in this NOFA and the supporting documentation requirements as described in the Application Instructions. Moreover, the CDFI Fund will review the Applicant’s submitted documentation and transaction information to ensure it meets the Qualified Activity definitions in this section. For purposes of this NOFA, Applicants are required to submit supporting documentation for all Qualified Activities with transactions above \$500,000 that are submitted as part of the FY 2026 BEA Program

Application. Applicants are also required to maintain on file supporting documentation for transactions that are \$500,000 or less. The CDFI Fund reserves the right to request supporting documentation from an Applicant during its Application Review process for transactions that are \$500,000 or less.

C. Qualified Activity Definitions: (i) CDFI Related Activities: For CDFI Related Activities, Applicants may select transactions in the following two sub-categories: a. CDFI Equity; and b. CDFI Support Activities. Additional requirements and limitations for this sub-category are described in Parts c. through e.

(a) *CDFI Equity:* This sub-category includes the following components: 1. Equity Investments; and 2. Equity-Like Loans. Additional requirements and limitations for this sub-category are described in Parts 3 through 5.

1. *Equity Investment:* An Equity Investment means financial assistance, provided by an Applicant or its Subsidiary, to a CDFI that meets the criteria in this NOFA, in the form of a grant, a stock purchase, a purchase of a partnership interest, a purchase of a limited liability company membership interest, or any other investment deemed to be an Equity Investment by the CDFI Fund.

2. *Equity-Like Loan:* An Equity-Like Loan is a loan provided by an Applicant or its Subsidiary to a CDFI and made on such terms that it has characteristics of an Equity Investment, as such characteristics may be specified by the CDFI Fund. For purposes of this NOFA, an Equity-Like Loan must meet the following characteristics: (a) At the end of the initial term, the loan must have a definite rolling maturity date that is automatically extended on an annual basis if the CDFI borrower continues to be financially sound and carry out a community development mission; (b) Periodic payments of interest and/or principal may only be made out of the CDFI borrower's available cash flow after satisfying all other obligations; (c) Failure to pay principal or interest (except at maturity) will not automatically result in a default of the loan agreement; and (d) The loan must be subordinated to all other debt except for other Equity-Like Loans. The CDFI Fund reserves the right to determine, in its sole discretion and on a case-by-case basis, whether an instrument meets the above-stated characteristics of an Equity-Like Loan.

3. *CDFI Partner:* CDFI Partner is defined as a Certified CDFI that has been provided assistance in the form of CDFI Related Activities by an

unaffiliated Applicant. For the purposes of this NOFA, an eligible CDFI Partner that receives CDFI Support Activities from an Applicant must be Integrally Involved in a Distressed Community and have been certified as a CDFI as of the date that the BEA Program Applicant made its investment or provided support.

4. *Limitations on eligible Qualified Activities provided to certain CDFI Partners:* A CDFI Applicant cannot receive credit for any financial assistance or Qualified Activities provided to a CDFI Partner that is also an FDIC-insured depository institution or a depository institution holding company.

5. *CDFI Program Matching Funds:* Equity Investments, Equity-Like Loans, and CDFI Support Activities (except Technical Assistance) provided by a BEA Applicant to a CDFI and used by the CDFI for matching funds under the CDFI Program are eligible as a Qualified Activity under the CDFI Related Activity category.

(b) *CDFI Support Activity:* A CDFI Support Activity is defined as assistance provided by an Applicant or its Subsidiary to a CDFI that is Integrally Involved in a Distressed Community, in the form of certificates of deposits, origination of loans, or Technical Assistance. This sub-category consists of three components: 1. Certificates of Deposits; 2. Loans; and 3. Technical Assistance. Additional requirements and limitations for this sub-category are described in Part 4.

1. *Certificates of Deposit:* A Certificate of Deposit (CD), a CDFI Support Activity, placed by an Applicant or its Subsidiary in a CDFI Partner that is a bank, thrift, or credit union, must be: (i) uninsured and committed for at least three years; or (ii) insured, committed for a term of at least three years, and provided at an interest rate that is materially below market rates, in the determination of the CDFI Fund. (a) For purposes of this NOFA, "materially below market interest rate" is defined as the dividend rate that does not exceed the yields on Treasury securities at constant maturity as interpolated by Treasury from the daily yield curve and available on the Treasury website at www.treas.gov/offices/domestic-finance/debt-management/interest-rate/yield.shtml. For example, for a three-year CD, Applicants should use the three-year rate U.S. Government securities, Treasury Yield Curve Rate posted for that business day. The Treasury updates the website daily at approximately 5:30 p.m. ET. CDs placed prior to that time may use the rate posted for the previous business day. (b)

If a variable interest rate is used, the CD must also have an interest rate that is materially below the market interest rate over the life of the CD, in the determination of the CDFI Fund. If a variable rate is used, the Applicant must describe its methodology for determining that the interest rate over the life of the CD is a materially below market interest rate. The CDFI Fund reserves the right to follow up with an Applicant regarding variable interest rate CD transactions. (c) For purposes of this NOFA, a deposit placed by an Applicant directly with a CDFI Partner that participates in a deposit network or service may be treated as eligible under this NOFA if it otherwise meets the criteria for deposits specified in this NOFA and the CDFI Partner retains the full amount of the initial deposit or an amount equivalent to the full amount of the initial deposit through a deposit network exchange transaction.

2. *Loans:* Loans, a CDFI Support Activity, refers to an Applicant providing loans to an Eligible CDFI Partner.

3. *Technical Assistance:* Technical Assistance, a CDFI Support Activity, refers to the provision of consulting services, resources, training, and other nonmonetary support to an Eligible CDFI Partner relating to an organization, individual, or operation of a trade or business.

4. *Integrally Involved:* Integrally Involved is defined at 12 CFR 1806.103. For purposes of this NOFA, for an Applicant to report CDFI Support Activities in its Application the CDFI Partner which received the support must be deemed to be Integrally Involved by demonstrating it has: (a) provided at least 10 percent of the number of its financial transactions or dollars transacted (e.g., loans or Equity Investments), or 10 percent of the number of its Development Service Activities (as defined in 12 CFR 1805.104) or value of the administrative cost of providing such services, in one or more Distressed Communities identified by the CDFI Partner, in each of the three calendar years preceding the date of this NOFA; or (b) transacted at least 25 percent of the number of its financial transactions or dollars transacted (e.g., loans or equity investments) in one or more Distressed Communities in at least one of the three calendar years preceding the date of this NOFA, or 25 percent of the number of its Development Service Activities (as defined in 12 CFR 1805.104) or value of the administrative cost of providing such services, in one or more Distressed Communities identified by the CDFI Partner, in at least one of the three

calendar years preceding the date of this NOFA; or (c) demonstrated that it has attained at least 10 percent of market share for a particular financial product in one or more Distressed Communities (such as home mortgages originated in one or more Distressed Communities) in at least one of the three calendar years preceding the date of this NOFA; or (d) at least 25 percent of the CDFI Partner's physical locations (e.g., offices or branches) are located in one or more Distressed Communities where it provided financial transactions or Development Service Activities during the one calendar year preceding the date of the NOFA.

(ii) *Distressed Community Financing Activities:* Distressed Community Financing Activities comply with consumer protection laws and are defined as the following: (a) Consumer Loans; or (b) Commercial Loans and Investments. In addition to the requirements set forth in the Interim Rule, this NOFA provides the following additional requirements:

(a) *Consumer Loans:* Consumer Loans is a sub-category of Distressed Community Financing Activities and is defined as the following lending activity types: 1. Affordable Housing Loans; 2. Education Loans; 3. Home Improvement Loans; and 4. Small Dollar Consumer Loans.

1. *Affordable Housing Loans:* Affordable Housing Loans are Consumer Loans that refer to the origination of a loan to finance the purchase or improvement of the borrower's primary residence, and that is secured by such property, where such borrower is an Eligible Resident who meets Low- and Moderate-Income requirements. Per the Interim Rule, Low- and Moderate-Income means borrower income does not exceed 80 percent of the median income of the area involved, according to the U.S. Census Bureau data.

2. *Education Loans:* Education Loans are Consumer Loans that refer to an advance of funds to a student, who is an Eligible Resident who meets Low- and Moderate-Income requirements, for the purpose of financing a college or vocational education.

3. *Home Improvement Loans:* Home Improvement Loans are Consumer Loans that refer to an advance of funds, either unsecured or secured by a one-to-four family residential property, the proceeds of which are used to improve the borrower's primary residence, where such borrower is an Eligible Resident who meets Low- and Moderate-Income requirements.

4. *Small Dollar Consumer Loans:* For purposes of this NOFA, eligible Small Dollar Consumer Loans are responsible

and affordable loans, with a total principal value of no greater than \$5,000 and a term of ninety (90) days or more, that serve as available alternatives to the marketplace for individuals who are Eligible Residents who meet Low- and Moderate-Income requirements. A responsible Small Dollar Loan generally considers the borrower's ability to repay and may also reflect repayment terms, pricing, and safeguards that minimize adverse customer outcomes, including cycles of debt due to rollovers or reborrowing.

(b) *Commercial Loans and Investments:* Commercial Loans and Investments is a sub-category of Distressed Community Financing Activities and is defined as the following lending activity types:

1. *Affordable Housing Development Loans and related Project Investments:* Affordable Housing Development Loans are Commercial Loans that refer to the origination of a loan to finance the acquisition, construction, and/or development of single- or multi-family residential real property that meets the following income requirements: (a) For multi-family properties, at least 60 percent of the units must be affordable to Eligible Residents who meet Low- and Moderate-Income requirements; (b) For single-family homes, the property must be affordable to an Eligible Resident who meets Low- and Moderate-Income requirements. For the purposes of this NOFA, eligible Affordable Housing Development Loans and related Project Investments do not include housing for students or school dormitories.

2. *Commercial Real Estate Loans and related Project Investments:* For purposes of this NOFA, eligible Commercial Real Estate Loans and related Project Investments are generally limited to transactions with a total principal value of \$10 million or less. The CDFI Fund may consider transactions with a total principal value of over \$10 million. For such transactions, Applicants must provide a separate narrative ("Community Benefit Statement"), to demonstrate that the proposed project offers, or significantly enhances the quality of, a facility or service not currently provided to the Distressed Community.

3. *Small Business Loans and related Project Investments:* Small Business Loans are Commercial Loans that refer to the origination of a loan used for commercial or industrial activities (other than an Affordable Housing Loan, Affordable Housing Development Loan, Commercial Real Estate Loan, or Home Improvement Loan) to a business or farm that meets the size eligibility

standards of the Small Business Administration's Development Company or Small Business Investment Company programs (13 CFR 121.301) and is located in a Distressed Community.

(iii) *Service Activities:* Service Activities consist of the following five types:

(a) *Deposit Liabilities:* Deposit Liabilities are considered Service Activities and refer to time, savings, or demand deposits. Any such deposit must be accepted from Eligible Residents at the offices of the Applicant or of the Subsidiary of the Applicant and located in a Distressed Community. Deposit Liabilities may only include deposits held by individuals in transaction accounts (e.g., demand deposits, negotiable order of withdrawal accounts, automated transfer service accounts, and telephone or preauthorized transfer accounts) or non-transaction accounts (e.g., money market deposit accounts, other savings deposits, and all-time deposits), as defined by the Appropriate Federal Banking Agency. When reporting changes in the dollar amount of deposit accounts, the Applicant is required to report eligible Deposit Liabilities as of 12/31/2024 (Baseline Period) and 12/31/2025 (Assessment Period). Report deposits in aggregate, not individually. The FY 2026 BEA Program Application will calculate the increase in Deposit Liabilities based on the Applicant's inputs.

(b) *Community Services:* Community Services are considered Service Activities and refer to the following forms of assistance provided by officers, employees, or agents (contractual or otherwise) of the Applicant:

1. Provision of Technical Assistance and financial education to Eligible Residents regarding managing their personal finances;

2. Provision of Technical Assistance and consulting services to newly formed small businesses and nonprofit organizations located in the Distressed Community;

3. Provision of Technical Assistance and financial education to, or servicing the loans of, homeowners who are Eligible Residents and meet Low- and Moderate-Income requirements; and

4. Other services provided to Eligible Residents who meet Low- and Moderate-Income requirements or enterprises that are Integrally Involved in a Distressed Community, as deemed appropriate by the CDFI Fund.

(c) *Financial Services:* Financial Services are Service Activities that refer to check cashing, providing money orders and certified checks, automated

teller machines, safe deposit boxes, new branches, and other comparable services that are provided by the Applicant to Eligible Residents or enterprises that are Integrally Involved in the Distressed Community. The CDFI Fund will value the administrative cost of providing certain Financial Services using the following per unit values:

1. \$100 per account for Targeted Financial Services including safe transaction accounts, youth transaction accounts, Electronic Transfer Accounts (ETA) and Individual Development Accounts (IDA);

2. \$50 per account for checking and savings accounts that do not meet the definition of Targeted Financial Services;

3. \$5 per check cashing transaction;

4. \$50,000 per new ATM installed at a location in a Distressed Community;

5. \$500,000 per new retail bank branch office opened in a Distressed Community, including school-based bank branches approved by the Applicant's Federal bank regulator. In the case of Applicants engaging in Financial Services activities not described above, the CDFI Fund will determine the unit value of such service. When reporting the opening of a new retail bank branch office, the Applicant must certify that such new branch is intended to remain in operation for at least the next five years. Financial Service Activities must be provided by the Applicant to Eligible Residents or enterprises that are in a Distressed Community. An Applicant may determine the number of Eligible Residents who are Award Recipients of Financial Services by either: (i) collecting the addresses of its Financial Services customers, or (ii) certifying that the Applicant reasonably believes that such customers are Eligible Residents or enterprises located in a Distressed Community and providing a brief narrative describing how the Applicant made this determination. Citations must be provided for external sources. In addition, if external sources are referenced in the narrative, the Applicant must explain how it reached the conclusion that the cited references are directly related to the Eligible Residents or enterprises to whom it is claiming to have provided the Financial Services.

(d.) Targeted Financial Services: Targeted Financial Services are Service Activities that are targeted to Eligible Residents, including Electronic Transfer Accounts (ETAs), Individual Development Accounts (IDAs), and similar banking products.

(e.) Targeted Retail Savings/Investment Products: Targeted Financial

Services are Service Activities targeted to Eligible Residents that include certificates of deposit, mutual funds, and life insurance.

D. Certain Limitations on Qualified Activities: In addition to the definition of Qualified Activities as described in Section VI.2.A, the following restrictions apply:

(i) Loan Renewals and Refinances: Financial assistance provided by an Applicant shall not constitute a Qualified Activity for the purposes of calculating or receiving a BEA Program Award if such financial assistance consists of a loan to a borrower that has matured and is then renewed by the Applicant or consists of a loan to a borrower that is retired or restructured using the proceeds of a new commitment by the Applicant.

(ii) Certain Business Types: Financial assistance provided by an Applicant shall not constitute a Qualified Activity for the purposes of financing the following business types: adult entertainment providers, golf courses, racetracks, gambling facilities, country clubs, facilities offering massage services, hot tub facilities, suntan facilities, or stores where the principal business is the sale of alcoholic beverages for consumption off premises.

(iii) Prior BEA Program Awards: Qualified Activities funded with prior funding round BEA Program Award dollars or funded to satisfy requirements of the BEA Program Award Agreement shall not constitute a Qualified Activity for the purposes of calculating or receiving a BEA Program Award.

E. Review and Selection Process (i) Ineligible Transactions: The CDFI Fund will conduct a review of all transactions with supporting documentation. Transactions will be deemed ineligible for the purposes of calculating the BEA Award amount for one or more of the following reasons:

(a) Personally Identifiable Information (PII): The CDFI Fund will not collect or accept any Personally Identifiable Information (PII) in AMIS or in any of the Application submission materials. PII is information, which if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual. Although Applicants are required to enter addresses of individual borrowers or residents of Distressed Communities in AMIS, Applicants must not include the following PII for the individuals who received the financial products or services in AMIS or in the supporting documentation: name of the individual, Social Security Number, driver's license or state identification

number, passport number, and Alien Registration Number. This information should be redacted from all supporting documentation. If the CDFI Fund discovers PII during the review of an Application, the transaction will be deleted from the application record and deemed ineligible.

(b) Low-Income Housing Tax Credits: Financial assistance provided by an Applicant for which the Applicant receives benefits through Low-Income Housing Tax Credits, authorized pursuant to Section 42 of the Internal Revenue Code, as amended (26 U.S.C. 42), shall not constitute an Equity Investment, Project Investment, or other Qualified Activity, for the purposes of calculating or receiving a BEA Program Award.

(c) New Markets Tax Credits: Financial assistance provided by an Applicant for which the Applicant receives benefits as an investor in a Community Development Entity that has received an allocation of New Markets Tax Credits, authorized pursuant to Section 45D of the Internal Revenue Code, as amended (26 U.S.C. 45D), shall not constitute an Equity Investment, Project Investment, or other Qualified Activity, for the purposes of calculating or receiving a BEA Program Award. Leverage loans used in New Markets Tax Credit structured transactions that meet the requirements outlined in this NOFA are considered Distressed Community Financing Activities. The Application materials will provide further guidance on requirements for BEA transactions which were leverage loans used in a New Markets Tax Credit structured transaction.

(d) The Applicant did not include the mandatory supporting documentation as outlined in the Application Instructions.

(e) Information submitted in the Application did not align with the supporting documentation and/or in the Notes section in the transaction record in AMIS.

(f) Transactions were coded with the wrong activity/record type.

(g) Transactions were not located in the BEA Program Qualified Census Tracts.

(h) Transactions did not meet other requirements outlined in this NOFA or the BEA Application Instructions.

(i) Transactions for which the Applicant received a CDFI Program Award, other CDFI Fund awards, or other federal awards based on the same activity during the same semiannual period for which the institution seeks a BEA Program Award.

(ii) Application Review and Award Selection:

(a) *Application Review Process:* All Applications will be evaluated by reviewers. Reviewers are selected based on their experience in understanding various financial transactions, analyzing and interpreting financial documentation, strong written communication skills, and strong mathematical skills. Reviewers must complete the CDFI Fund's conflict of interest process and be approved by the CDFI Fund. Reviewers are responsible for reviewing supporting documentation for all CDFI Related Activities, Distressed Community Financing Activities, and Service Activities above \$500,000. Reviewers ensure the transactions submitted meet the requirements outlined in this NOFA and Application Instructions. This includes, but is not limited to, verifying the transaction amount, activity type, execution and disbursement dates, transaction address, and affordability requirements. CDFI Fund staff or other federal staff oversee reviewers to ensure transaction reviews adhere to the NOFA and applicable guidance and conduct their own reviews.

(b) *Selection Process:* The Interim Rule and this NOFA describe the process for selecting Applicants to receive a BEA Program Award and determining Award amounts. The CDFI Fund's funding priorities for this NOFA are described in Section III and Table 6.

(c) *Persistent Poverty Counties:* Should the CDFI Fund determine, upon analysis of the initial pool of BEA Program Award Recipients, that it has not achieved the 10 percent PPC requirement mandated by Congress, Award preference will be given to Applicants that committed to deploying at least 10 percent of their FY 2026 BEA Program Award in PPCs. Applicants that committed to serving PPCs and are selected to receive a FY 2026 BEA Program Award will have their PPC commitment incorporated into their Award Agreement as a Performance Goal which will be subject to compliance and reporting requirements. No Applicant, however, will be disqualified from consideration for not making a PPC commitment in its BEA Program Application.

(d) *Programmatic and Financial Risk:* The CDFI Fund will consider safety and soundness information from the appropriate Federal bank regulatory agency as defined in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)). If the appropriate Federal bank regulatory agency identifies safety and soundness concerns, the CDFI Fund will assess whether the concerns cause or will cause the Applicant to be incapable of

completing the activities for which funding has been requested. The CDFI Fund will not approve a BEA Program Award under any circumstances for an Applicant if the appropriate Federal bank regulatory agency indicates that the Applicant received a composite rating of "5" on its most recent examination, performed in accordance with the Uniform Financial Institutions Rating System. Furthermore, the CDFI Fund will not make a BEA Program Award to an Applicant that has:

1. a CRA assessment rating of below "Satisfactory" on its most recent examination; or
2. a financial audit with a going concern paragraph, an adverse opinion, a disclaimer of opinion, or a withdrawal of an opinion on its most recent audit; or

3. a Prompt Corrective Action directive from its regulator imposing restrictions on its level of lending activities, that was active at the time the Applicant submitted its Application to the CDFI Fund or becomes active during the CDFI Fund's evaluation of the Application for activities for which funding has been requested, activities which meet the BEA Program criteria of Qualified Activities, or other circumstances which may impact an Applicant's ability to successfully manage, re-invest, and/or report on a FY 2026 BEA Program Award. The CDFI Fund may contact Applicants and/or their appropriate Federal bank regulator to provide additional information related to Federal bank regulatory or CRA information. If this information indicates that an Applicant may be unable to responsibly manage, re-invest, and/or report on a FY 2026 BEA Program Award during the period of performance, the CDFI Fund may choose to not approve a FY 2026 BEA Program Award for the Applicant.

(e) *Contacting Applicant for Clarification:* If the Applicant submitted a complete and eligible Application, the CDFI Fund will conduct a substantive review in accordance with the criteria and procedures described in the Interim Rule, this NOFA, the Application guidance, and the Uniform Administrative Requirements. The CDFI Fund reserves the right to contact the Applicant by telephone, email, or mail for the sole purpose of clarifying or confirming Application information. If contacted, the Applicant must respond within the period communicated by the CDFI Fund or run the risk that the Applicant's Application will be rejected.

(f) *Changes in Eligibility and Evaluation Criteria:* The CDFI Fund reserves the right to change its eligibility

and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If said changes materially affect the CDFI Fund's Award decisions, the CDFI Fund will provide information regarding the changes through the CDFI Fund's website. It is the Applicant's responsibility to monitor the CDFI Fund's website for such changes.

(g) *Application Rejection:* The CDFI Fund reserves the right, in its sole discretion, to reject an Application if information (including administrative errors) comes to the attention of the CDFI Fund that adversely affects an Applicant's eligibility for an Award, adversely affects the CDFI Fund's evaluation or scoring of an Application, or indicates fraud or mismanagement on the Applicant's part, including mismanagement of another Federal award. If the CDFI Fund determines that any portion of the Application is incorrect in any material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the Application. There is no right to appeal the CDFI Fund's Award decisions. The CDFI Fund's Award decisions are final.

VII. Award Notice

A. *Award Notification:* The Authorized Representative and Point(s) of Contact for each successful Applicant will receive an email "notice of award" notification from the CDFI Fund stating that its Application has been approved for an Award. The email "notice of award" is not an authorization to begin performance.

B. *Application Debriefs:* The Authorized Representative and Point(s) of Contact for each Applicant not selected for an award will receive an email with information on when a debriefing document will be provided in its AMIS account (<https://amis.cdfifund.gov>). The CDFI Fund will not discuss the specifics of an Applicant's FY 2026 BEA Program Application or provide specific reasons why an Applicant was not selected to receive an FY 2026 BEA Program Award beyond any information provided in the debriefing document. The CDFI Fund will only respond to general questions regarding the FY 2026 BEA Program Application and award decision process until 30 days after the Award announcement date.

VIII. Post-Award Requirements and Administration

A. *Administrative and National Policy Requirements.* Prior to entering into an Award Agreement, the CDFI Fund may, in its discretion and without advance notice to the Applicant, terminate the Award or take other actions as it deems

appropriate if information (including an administrative error) comes to the CDFI Fund's attention that adversely affects the Recipient's eligibility for an Award; adversely affects the CDFI Fund's evaluation of the Application; adversely affects the Recipient's compliance with any requirement listed in the Uniform Administrative Requirements; or indicates fraud or mismanagement on the Recipient's part, including mismanagement of another Federal award. The CDFI Fund reserves the

right, in its sole discretion, to rescind an Award if the Recipient fails to return the Award Agreement signed by an Authorized Representative of the Recipient, and/or provide the CDFI Fund with any other requested documentation, within the CDFI Fund's deadlines. If a Certified CDFI Award Recipient's CDFI Certification status is terminated, the CDFI Fund reserves the right, in its sole discretion, to recalculate the Award, and modify the Award Agreement based on the Award

Recipient's non-CDFI status. If the Recipient, through merger or similar transaction, ceases to exist as a legal entity, the CDFI Fund may terminate and rescind the Award Agreement, and the Award made under this NOFA. In addition, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Award Agreement and the Award made under this NOFA for any criteria described in Table 11:

TABLE 11—CRITERIA THAT MAY RESULT IN AWARD TERMINATION PRIOR TO THE EXECUTION OF AN AWARD AGREEMENT

Criteria	Description
Failure to meet reporting requirements	If a Recipient received a prior Award or Allocation under any CDFI Fund program and is not current on the reporting requirements set forth in the previously executed Assistance, Award, Allocation, Bond Loan Agreement(s), or Agreement to Guarantee as of the date of the notice of award, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a payment of the BEA Program Award, until said prior Recipient or allocatee is current on the reporting requirements in the previously executed Assistance Agreement, Award Agreement, Allocation Agreement, Bond Loan Agreement, or Agreement to Guarantee. If such a prior Recipient or allocatee is unable to meet this requirement within the timeframe set by the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the notice of award and the BEA Program Award made under this NOFA. Please note that automated systems employed by the CDFI Fund for receipt of reports submitted electronically typically acknowledge only a report's receipt; such acknowledgment does not warrant that the report received was complete, nor that it met reporting requirements.
Pending resolution of Default or Noncompliance	If a Recipient has pending noncompliance or default issues with any of its previously executed CDFI Fund Assistance Agreement, Award Agreement, Allocation Agreement, Bond Loan Agreement, or Agreement to Guarantee the CDFI Fund will delay entering into an Award Agreement until the CDFI Fund has made a final compliance determination. If said prior Recipient is unable to satisfactorily resolve the compliance issues, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the notice of award and the Award made under this NOFA.
Default or Noncompliance status	The CDFI Fund may delay entering into an Award Agreement with a Recipient if the CDFI Fund determines that the Recipient is noncompliant or in default with any previously executed Assistance Agreement, Award Agreement, Allocation Agreement, Bond Loan Agreement, or Agreement to Guarantee, and the CDFI Fund has provided written notification that the Recipient is ineligible to apply for or receive any future awards or allocations for a specified timeframe. Additionally, regardless of whether a sanction or remedy is imposed, the CDFI Fund will not consider an Application submitted by an Applicant if the default on a prior Award, Assistance or Allocation Agreement of the Applicant or an Affiliate occurs during the time period beginning 12 months prior to the Application deadline and execution of the FY 2026 Award Agreement. In such a circumstance the CDFI Fund may specify actions the Recipient must take to cure the noncompliance or default. If the Recipient is unable to cure the noncompliance or default within the timeframe specified by the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Award Agreement and the Award made under this NOFA.
Noncompliance with Federal civil rights requirements.	If, within the period starting three years prior to this NOFA and through the date of the Award Agreement, the Recipient received a final determination, in any proceeding instituted against the Recipient in, by, or before any court, governmental, or administrative body or agency, declaring that the Recipient violated any Federal civil rights laws or regulations, including, but not limited to: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d <i>et seq.</i>); the Fair Housing Act (42 U.S.C. 3601 <i>et seq.</i>); the Equal Credit Opportunity Act (15 U.S.C. 1691 <i>et seq.</i>); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107), and Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 <i>et seq.</i>), the CDFI Fund may terminate and rescind the Award Agreement and the Award made under this NOFA.
Safety and Soundness	If it is determined the Recipient is or will be incapable of meeting its award obligations, the CDFI Fund will deem the Recipient to be ineligible or require it to improve safety and soundness conditions prior to entering into an Award Agreement.
Failure to maintain FDIC-insured status	If, prior to entering into an Award Agreement under this NOFA, the Award Recipient does not maintain its FDIC-insured status, the CDFI Fund will terminate and/or rescind the Award Agreement, and the Award made under this NOFA.

B. Award Agreement: The Authorized Representative and Point(s) of Contact for each Applicant that is selected to receive an Award under this NOFA will receive an email notification from the CDFI Fund stating an Award Agreement has been provided in its AMIS account. The Award Agreement must be fully executed by the Applicant's Authorized Representative and the CDFI Fund for the Applicant to become a Recipient and receive Payment. Each BEA Program Award Agreement has a one-year Period of Performance. The Award Agreement will set forth certain required terms and conditions of the BEA Program Award, which will include, but not be limited to:

(i). undertaking Qualified Activities during the one-year Period of Performance;

(ii). meeting the PPC requirements as outlined in the Award Agreement as applicable;

(iii). The Award Agreement shall provide that the Awardee shall not, to the best of its knowledge and after reasonable diligence, provide any federal public benefit in a manner that violates applicable Federal anti-discrimination laws, including providing employment or financial preferences or set-asides based on any person's race, ethnicity, or sex, in a manner that is inconsistent with any applicable Federal anti-discrimination laws. Additionally, the Awardee must adopt, implement, and maintain policies and procedures reasonably designed to ensure the Awardee's compliance with applicable Federal anti-discrimination laws. Annually, the Awardee shall certify the existence and administration of such policies and procedures and make them available for review upon request by the CDFI Fund; and

(iv). meeting all reporting requirements as described below.

C. Reporting. The CDFI Fund will require each Recipient that receives a BEA Program Award through this NOFA to account for and report to the CDFI Fund on the use of the BEA Program Award. This will require Recipients to establish administrative controls subject to the Uniform Administrative Requirements and other applicable OMB guidance. Following payment, the CDFI Fund will collect information from each Recipient on its use of the BEA Program Award annually, and more often if deemed appropriate by the CDFI Fund, in its sole discretion. The CDFI Fund will provide guidance to Recipients outlining the format and content of the information required to describe how the funds were used. The CDFI Fund may collect information from each Recipient including, but not limited to, an annual report with the components listed in Table 12:

TABLE 12—ANNUAL REPORTING REQUIREMENTS

Annual Certification and Data Collection Report (ACR).	All Recipients that are Certified CDFIs as of the date of the award announcement must submit the ACR and the Transaction Level Report (TLR) to the CDFI Fund through AMIS (https://amis.cdfifund.gov) per the reporting schedule.
Uses of BEA Program Award Report—for all Award Recipients.	The Recipient must submit the Use of Award Report to the CDFI Fund via AMIS.
Uses of BEA Program Award Report—Funds Deployed in Persistent Poverty Counties—as applicable.	The CDFI Fund will require each Award Recipient with Persistent Poverty County (PPC) commitments to report data for Award funds deployed in PPCs and maintain proper supporting documentation and records which are subject to review by the CDFI Fund.

Each Recipient is responsible for the timely and complete submission of the Annual Reporting Requirements. The CDFI Fund reserves the right to contact the Recipient and additional entities or signatories to the Award Agreement to request additional information and/or documentation. The CDFI Fund will use such information to monitor each Recipient's compliance with the requirements of the Award Agreement and to assess the impact of the BEA Program. The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements, including increasing the scope and frequency of reporting, if it determines it to be appropriate and necessary. The CDFI Fund will notify Recipients before modifying any reporting requirements.

D. Financial Management and Accounting: The CDFI Fund will require Recipients to maintain financial management and accounting systems that comply with Federal statutes, regulations, and the terms and conditions of the Federal Award. These systems must be sufficient to permit the preparation of reports required by the CDFI Fund to ensure compliance with the requirements of the BEA Program,

including the tracing of Award funds to a level of expenditures adequate to establish that such Award funds have been used in accordance with Federal statutes, regulations, and the terms and conditions of the Federal Award. The cost principles used by Recipients must be consistent with Federal cost principles; must support the accumulation of costs as required by the principles; and must provide for adequate documentation to support costs charged to the BEA Program Award. In addition, the CDFI Fund will require Recipients to: maintain effective internal controls; comply with applicable statutes and regulations, the Award Agreement, and related guidance; evaluate and monitor compliance; take appropriate corrective action when not in compliance; and safeguard PII.

(i) The Award Recipient shall use BEA Program Award funds only for the Eligible Activities described in Section VI of this NOFA and the Authorized BEA Program Activities described in its Award Agreement. Eligible Activities for BEA Program Award Recipients are referred to as Qualified Activities in the Application and are defined in the

Interim Rule to include CDFI Related Activities, Distressed Community Financing Activities, and Service Activities (12 CFR 1806.103 and 1806.300).

(ii) The Award Recipient may not distribute BEA Program Award funds to an Affiliate, Subsidiary, or any other entity, without the CDFI Fund's prior written approval.

(iii) BEA Program Award funds shall only be disbursed to the Award Recipient.

(iv) The CDFI Fund, in its sole discretion, may disburse BEA Program Award funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

IX. Other Information

A. Revisions to Federal Funding Accountability and Transparency Act of 2006. Each Applicant that does not have an exception related to reporting subaward and executive compensation information under 2 CFR 170 must have the necessary processes and systems in place to comply with reporting requirements should they receive an Award.

B. Civil Rights and Equal Opportunity.

Any person who is eligible to receive benefits or services from the CDFI Fund or Recipients under any of its programs is entitled to those benefits or services without being subject to prohibited discrimination. The Department of the Treasury's Office of Civil Rights and Equal Employment Opportunity enforces various Federal statutes and regulations that prohibit discrimination in financially assisted and conducted programs and in the activities of the CDFI Fund. If a person believes that s/he has been subjected to discrimination and/or reprisal s/he may file a complaint with: Director, Office of Civil Rights and Equal Employment Opportunity, 1500 Pennsylvania Ave. NW, Washington, DC 20230 or crcomplaints@treasury.gov.

C. Fraud, Waste, and Abuse

Prevention Notice. In accordance with Executive Order Establishing the Task Force to Eliminate Fraud (March 16, 2026), the CDFI Fund affirms that fraud, waste, and abuse is not tolerated across its programs. The CDFI Fund will work with the U.S. Department of the Treasury, the Presidential Task Force to Eliminate Fraud, the Department of Justice, and other applicable federal, state, and local stakeholders to identify and dismantle fraud, waste, and abuse.

All applicants, award recipients, and contractors are on notice that any misuse or fraudulent obtainment of federal funds will result in the maximum enforcement response available under the law, including award termination, repayment demands, suspension and debarment, and referral for civil and criminal prosecution under the False Claims Act (31 U.S.C. 3730). Suspected fraud, waste, or abuse should be reported to the Treasury Office of Inspector General at 1-800-359-3898 or www.oig.treas.gov.

D. Whistleblower Protections. An employee of a recipient or subrecipient must not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (a)(2) of 41 U.S.C. 4712 information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant. The recipient and subrecipient must inform their employees in writing of employee whistleblower rights and protections under 41 U.S.C. 4712.

E. Statutory and National Policy Requirements. The CDFI Fund must manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with the U.S. Constitution, Federal law, and public policy requirements.

F. Paperwork Reduction Act: Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. If applicable, the CDFI Fund may inform Applicants that they do not need to provide certain Application information otherwise required. Pursuant to the Paperwork Reduction Act, the BEA Program Application has been assigned the following control number: 1559-0005.

G. Application Information Sessions: The CDFI Fund may conduct webinars or host information sessions for organizations that are considering applying to, or are interested in learning about, the CDFI Fund's programs. For further information, please visit the CDFI Fund's website at <https://www.cdfifund.gov>.

(Authority: 12 U.S.C. 1834a, 4703, 4703 note, 4713; 12 CFR part 1806)

Dated: June 26, 2026.

Luke J. Pettit,

Assistant Secretary for Financial Institutions.

[FR Doc. 2026-13199 Filed 6-29-26; 8:45 am]

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DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Funding Opportunities: Bond Guarantee Program, FY 2026; Notice of Guarantee Availability

Funding Opportunity Title: Notice of Guarantee Availability (NOGA) inviting Qualified Issuer Applications and Guarantee Applications for the Community Development Financial Institutions (CDFI) Bond Guarantee Program.

Announcement Type: Announcement of opportunity to submit Qualified Issuer Applications and Guarantee Applications.

Catalog of Federal Domestic Assistance (CFDA) Number: 21.011.

Dates: Qualified Issuer Applications and Guarantee Applications may be submitted to the CDFI Fund starting on the date of publication of this NOGA. In order to be considered for the approval

of a Guarantee in fiscal year (FY) 2026, Qualified Issuer Applications must be submitted by 11:59 p.m. Eastern Time (ET) on July 7, 2026 and Guarantee Applications must be submitted by 11:59 p.m. ET on July 8, 2026. If applicable, CDFI Certification Applications must be received by the CDFI Fund by 11:59 p.m. ET on July 2, 2026. Under FY 2026 authority, Bond Documents and Bond Loan documents must be executed, and Guarantees will be provided, in the order in which Guarantee Applications are approved or by such other criteria that the CDFI Fund may establish, in its sole discretion, and in any event by December 31, 2026.

Executive Summary: This NOGA is published in connection with the CDFI Bond Guarantee Program, administered by the Community Development Financial Institutions Fund (CDFI Fund), the U.S. Department of the Treasury (Treasury). Through this NOGA, the CDFI Fund announces the availability of up to \$500 million of Guarantee Authority in FY 2026 subject to Congressional authorization. This NOGA explains application submission and evaluation requirements and processes, and provides agency contacts and information on CDFI Bond Guarantee Program outreach. Parties interested in being approved for a Guarantee under the CDFI Bond Guarantee Program must submit Qualified Issuer Applications and Guarantee Applications for consideration in accordance with this NOGA. Capitalized terms used in this NOGA, and not defined elsewhere, are defined in the CDFI Bond Guarantee Program regulations (12 CFR 1808.102) and the CDFI Program regulations (12 CFR 1805.104).

I. Guarantee Opportunity Description

A. Authority. The CDFI Bond Guarantee Program was authorized by the Small Business Jobs Act of 2010 (Pub. L. 111-240; 12 U.S.C. 4713a) (the Act). Section 1134 of the Act amended the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701, *et seq.*) to provide authority to the Secretary of the Treasury (Secretary) to establish and administer the CDFI Bond Guarantee Program.

B. Bond Issue Size; Amount of Guarantee authority. In FY 2026, the CDFI Fund expects that the Secretary may guarantee Bond Issues having a minimum Guarantee of \$100 million each, and up to an aggregate total of \$500 million, or other amounts authorized by FY 2026 Appropriations.

C. Program summary. The purpose of the CDFI Bond Guarantee Program is to

support CDFI lending by providing Guarantees for Bonds issued for Eligible Community or Economic Development Purposes, as authorized by section 1134 and 1703 of the Act. The Secretary, as the Guarantor of the Bonds, will provide a 100% Guarantee for the repayment of the Verifiable Losses of Principal, Interest, and Call Premium of Bonds issued by Qualified Issuers. Qualified Issuers, approved by the CDFI Fund, will issue Bonds that will be purchased by the Federal Financing Bank. The Qualified Issuer will use 100% of Bond Proceeds to provide Bond Loans to Eligible CDFIs, which will use Bond Loan proceeds for Eligible Community and Economic Development Purposes, including providing Secondary Loans to Secondary Borrowers in accordance with the Secondary Loan Requirements. Secondary Loans may support lending in the following asset classes: CDFI-to-CDFI, CDFI to Financing Entity, Charter Schools, Commercial Real Estate, Daycare Centers, Healthcare Facilities, Rental Housing, Rural Infrastructure, Owner-Occupied Home Mortgages, Licensed Senior Living and Long-Term Care Facilities, Small Business, and Not-for-Profit Organizations, as these terms are defined in the Secondary Loan Requirements (Underwriting Review Checklist), which can be found on the CDFI Fund's website www.cdfifund.gov/bond.

D. Review Guarantee Applications, in general.

1. Qualified Issuer Applications submitted with Guarantee Applications will have priority for review over Qualified Issuer Applications submitted without Guarantee Applications. With the exception of the aforementioned prioritized review, all Qualified Issuer Applications and Guarantee Applications will be reviewed by the CDFI Fund on an ongoing basis, in the order in which they are received, or by such other criteria that the CDFI Fund may establish in its sole discretion.

2. Guarantee Applications that are incomplete or require the CDFI Fund to request additional or clarifying information may delay the ability of the CDFI Fund to move the Guarantee Application to the next phase of review. Submitting an incomplete Guarantee Application earlier than other applicants does not ensure first approval.

3. Qualified Issuer Applications and Guarantee Applications that were received in FY 2025 and that were neither withdrawn nor declined in FY 2025 will be considered under FY 2026 authority.

4. Pursuant to the Regulations at 12 CFR 1808.504(c), the Guarantor may

limit the number of Guarantees issued per year or the number of Guarantee Applications accepted to ensure that a sufficient examination of Guarantee Applications is conducted.

E. Additional reference documents. In addition to this NOGA, the CDFI Fund encourages interested parties to review the following documents, which have been posted on the CDFI Bond Guarantee Program page of the CDFI Fund's website.

1. Guarantee Program Regulations. The regulations that govern the CDFI Bond Guarantee Program were published on February 5, 2013 (78 FR 8296; 12 CFR part 1808) (the Regulations), and provide the regulatory requirements and parameters for CDFI Bond Guarantee Program implementation and administration including general provisions, eligibility, eligible activities, applications for Guarantee and Qualified Issuer, evaluation and selection, terms and conditions of the Guarantee, Bonds, Bond Loans, and Secondary Loans.

2. Application materials. Details regarding Qualified Issuer Application and Guarantee Application content requirements are found in this NOGA and the respective application materials. Interested parties should review the template Bond Documents and Bond Loan documents that will be used in connection with each Guarantee. The template documents are posted on the CDFI Fund's website for review. Such documents include, among others:

a. The Secondary Loan Requirements, which contain the minimum required criteria (in addition to the Eligible CDFI's underwriting criteria) for a loan to be accepted as a Secondary Loan or Other Pledged Loan. The Secondary Loan Requirements include the General Requirements and the Underwriting Review Checklist;

b. The Agreement to Guarantee, which describes the roles and responsibilities of the Qualified Issuer, will be signed by the Qualified Issuer and the Guarantor, and will include term sheets as exhibits that will be signed by each individual Eligible CDFI;

c. The Term Sheet(s), which describe the material terms and conditions of the Bond Loan from the Qualified Issuer to the Eligible CDFI. The CDFI Fund website includes template term sheets for the General Recourse Structure (GRS), the Alternative Financial Structure (AFS), and for the CDFI to Financing Entity Asset Class utilizing pooled tertiary loans;

d. The Bond Trust Indenture, which describes the responsibilities of the Master Servicer/Trustee in overseeing the Trust Estate and the servicing of the

Bonds, which will be entered into by the Qualified Issuer and the Master Servicer/Trustee;

e. The Bond Loan Agreement, which describes the terms and conditions of Bond Loans, and will be entered into by the Qualified Issuer and each Eligible CDFI that receives a Bond Loan;

f. The Bond Purchase Agreement, which describes the terms and conditions under which the Bond Purchaser will purchase the Bonds issued by the Qualified Issuer, and will be signed by the Bond Purchaser, the Qualified Issuer, the Guarantor and the CDFI Fund; and

g. The Future Advance Promissory Bond, which will be signed by the Qualified Issuer as its promise to repay the Bond Purchaser. The template documents may be updated periodically, as needed, and will be tailored, as appropriate, to the terms and conditions of a particular Bond, Bond Loan, and Guarantee. Additionally, the CDFI Fund may impose terms and conditions that address risks unique to the Eligible CDFI's business model and target market, which may include items such as concentration risk of a specific Eligible CDFI, geography or Secondary Borrower.

The Bond Documents and the Bond Loan documents reflect the terms and conditions of the CDFI Bond Guarantee Program and will not be substantially revised or negotiated prior to execution.

F. Frequently Asked Questions. The CDFI Fund may periodically post on its website responses to questions submitted by parties interested in applying to the CDFI Bond Guarantee Program.

G. Designated Bonding Authority. The CDFI Fund has determined that, for purposes of this NOGA, it will not solicit applications from entities seeking to serve as a Qualified Issuer in the role of the Designated Bonding Authority, pursuant to 12 CFR 1808.201, in FY 2026.

H. Noncompetitive process. The CDFI Bond Guarantee Program is a non-competitive program through which Qualified Issuer Applications and Guarantee Applications will undergo a merit-based evaluation (meaning, applications will not be scored against each other in a competitive manner in which higher ranked applicants are favored over lower ranked applicants). If the CDFI Bond Guarantee Program receives applications requesting more than the amount of Guarantee authority, then it reserves the right to reduce the award amount to applicants as necessary in order to maximize the utilization of the Guarantee authority.

I. Relationship to other CDFI Fund programs.

1. Award funds received under any other CDFI Fund Program cannot be used by any participant, including Qualified Issuers, Eligible CDFIs, and Secondary Borrowers, to pay principal, interest, fees, administrative costs, or issuance costs (including Bond Issuance Fees) related to the CDFI Bond Guarantee Program, or to fund the Risk-Share Pool for a Bond Issue.

2. Bond Proceeds may not be used to refinance any projects financed and/or supported with proceeds from the Capital Magnet Fund (CMF). This restriction remains in place so long as the property or project is financed or supported by a CMF award, until the end of the defined CMF Affordability Period, or alternatively, until the restriction ends when the loan funded by the CMF award has been replaced by a newer loan for a different phase of the project (for instance a permanent loan to replace a construction loan).

3. Bond Proceeds may not be used to refinance a leveraged loan during the seven-year NMTC compliance period. However, Bond Proceeds may be used to refinance a QLICI after the seven-year NMTC compliance period has ended, so long as all other programmatic requirements are met.

4. The terms Qualified Equity Investment, Community Development Entity, and QLICI are defined in the NMTC Program's authorizing statute, 26 U.S.C. 45D.

J. Relationship and interplay with other Federal programs and Federal funding. Eligible CDFIs may not use Bond Loans to refinance existing Federal debt or to service debt from other Federal credit programs.

1. The CDFI Bond Guarantee Program underwriting process will include a comprehensive review of the Eligible CDFI's concentration of sources of funds available for debt service, including the concentration of sources from other Federal programs and level of reliance on said sources, to determine the Eligible CDFI's ability to service the additional debt. The review of the CDFI's debt concentration could lead to covenants limiting the amount of the applicant's bond loan debt concentration in their portfolio.

2. In the event that the Eligible CDFI proposes to use other Federal funds to service Bond Loan debt or as a Credit Enhancement for Secondary Loans, the CDFI Fund may require—at its sole discretion, that the Eligible CDFI must provide written assurances from such other Federal programs in a form that is acceptable and permissible to the CDFI

Fund and that the CDFI Fund may rely upon.

K. Contemporaneous application submission. Qualified Issuer Applications may be submitted contemporaneously with Guarantee Applications; however, the CDFI Fund will review an entity's Qualified Issuer Application and make its Qualified Issuer determination prior to approving a Guarantee Application. As noted above in D(1), review priority will be given to any Qualified Issuer Application that is accompanied by a Guarantee Application.

L. Other restrictions on use of funds. Bond Proceeds may not be used to finance or refinance any trade or business consisting of the operation of any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off-premises. Bond Proceeds may not be used to finance or refinance tax-exempt obligations or to finance or refinance projects that are also financed by tax-exempt obligations if: (a) such financing or refinancing results in the direct or indirect subordination of the Bond Loan or Bond Issue to the tax-exempt obligations, or (b) such financing or refinancing results in a corresponding guarantee of the tax-exempt obligation. Qualified Issuers and Eligible CDFIs must ensure that any financing made in conjunction with tax-exempt obligations complies with CDFI Bond Guarantee Program Regulations.

II. General Application Information

The following requirements apply to all Qualified Issuer Applications and Guarantee Applications submitted under this NOGA, as well as any Qualified Issuer Applications and Guarantee Applications submitted under the FY 2025 NOGA that were neither withdrawn nor declined in FY 2025.

A. CDFI Certification Requirements.

1. In general. By statute and regulation, the Qualified Issuer applicant must be either a Certified CDFI (an entity that the CDFI Fund has officially notified that it meets all CDFI Certification requirements as set forth in 12 CFR 1805.201) or an entity designated by a Certified CDFI to issue Bonds on its behalf. An Eligible CDFI must be a Certified CDFI as of the Bond Issue Date and must maintain its CDFI Certification throughout the term of the corresponding Bond.

2. CDFI Certification requirements. Pursuant to the regulations that govern CDFI Certification (12 CFR 1805.201),

an entity may be certified if it is a legal entity (meaning, that it has properly filed articles of incorporation or other organizing documents with the State or other appropriate body in the jurisdiction in which it was legally established, as of the date the CDFI Certification Application is submitted) and meets the following requirements:

a. Primary Mission requirement (12 CFR 1805.201(b)(1)): To be a Certified CDFI, an entity must have a primary mission of promoting community development. In general, the entity will be found to meet the primary mission requirement if its incorporating documents or board-approved narrative statement (*i.e.*, mission statement or resolution) clearly indicate that it has a mission of purposefully addressing the social and/or economic needs of Low-Income individuals, individuals who lack adequate access to capital and/or financial services, distressed communities, and other underserved markets. An Affiliate of a Controlling CDFI (related to AFS only), seeking to be certified as a CDFI (and therefore, approved to be an Eligible CDFI to participate in the CDFI Bond Guarantee Program), must demonstrate that it meets the primary mission requirement on its own merit, pursuant to the regulations and the CDFI Certification Application and related guidance materials posted on the CDFI Fund's website.

b. Financing Entity requirement (12 CFR 1805.201(b)(2)): To be a Certified CDFI, an entity must demonstrate that its predominant business activity is the provision, in arms-length transactions, of Financial Products and/or Financial Services. On April 10, 2015, the CDFI Fund published a revision of 12 CFR 1805.201(b)(2), the section of the CDFI Certification regulation that governs the "financing entity" requirement. The regulatory change creates a means for the CDFI Fund, in its discretion, to deem an Affiliate (meaning, in this case, an entity that is Controlled by a Certified CDFI; see 12 CFR 1805.104) to have met the financing entity requirement based on the financing activity or track record of the Controlling CDFI (Control is defined in 12 CFR 1805.104), solely for the purpose of participating in the CDFI Bond Guarantee Program as an Eligible CDFI. This change is key to the creation of an AFS for the Bond Guarantee Program (see Section II(B)(2) of this NOGA for more information on the AFS). In order for the Affiliate to rely on the Controlling CDFI's financing track record, (A) the Controlling CDFI must be a Certified CDFI; (B) there must be an operating agreement that includes

management and ownership provisions in effect between the two entities (prior to the submission of a CDFI Certification Application and in form and substance that is acceptable to the CDFI Fund). If applicable, CDFI Certification Applications must be received by the CDFI Fund by 11:59 p.m. ET on July 2, 2026. An applicant for an Affiliate certification must have submitted a CDFI Certification Application for an Affiliate by July 2, 2026 in order for it to be considered for CDFI Certification and participation in the FY 2026 application round of the CDFI Bond Guarantee Program. This regulatory provision affects only the Affiliate's ability to meet the financing entity requirement for purposes of CDFI Certification; said Affiliate must meet the other certification criteria in accordance with the existing regulations governing CDFI Certification.

i. The regulation also states that, solely for the purpose of participating in the CDFI Bond Guarantee Program, the Affiliate's provision of Financial Products and Financial Services, Development Services, and/or other similar financing transactions does not need to be arms-length in nature if such transaction is by and between the Affiliate and Controlling CDFI, pursuant to an operating agreement that (a) includes management and ownership provisions, (b) is effective prior to the submission of a CDFI Certification Application, and (c) is in form and substance that is acceptable to the CDFI Fund.

ii. An Affiliate whose CDFI Certification is based on the financing activity or track record of a Controlling CDFI is not eligible to receive financial or technical assistance awards or tax credit allocations under any other CDFI Fund program until such time that the Affiliate meets the financing entity requirement based on its own activity or track record.

iii. If an Affiliate elects to satisfy the financing entity requirement based on the financing activity or track record of a Controlling CDFI, and if the CDFI Fund approves such Affiliate as an Eligible CDFI for the sole purpose of participation in the CDFI Bond Guarantee Program, said Affiliate's CDFI Certification will terminate if: (A) it does not enter into Bond Loan documents with its Qualified Issuer within one (1) year of the date that it signs the term sheet (which is an exhibit to the Agreement to Guarantee); (B) it ceases to be an Affiliate of the Controlling CDFI; or (C) it ceases to adhere to CDFI Certification requirements.

iv. An Affiliate electing to satisfy the financing entity requirement based on the financing activity or track record of a Controlling CDFI does not need to have completed any financing activities prior to the date the CDFI Certification Application is submitted or approved. However, the Affiliate and the Controlling CDFI must have entered into the operating agreement described in (b)(i)(B) above, prior to such date, in form and substance that is acceptable to the CDFI Fund.

c. Target Market requirement (12 CFR 1805.201(b)(3)): To be a Certified CDFI, an entity must serve at least one eligible Target Market (either an Investment Area or a Targeted Population) by directing at least 60.00% of all of its Financial Product activities (in both number and dollar volume of transactions) to one or more eligible Target Markets.

i. Solely for the purpose of participation as an Eligible CDFI in the FY 2026 application round of the CDFI Bond Guarantee Program, an Affiliate of a Controlling CDFI (related to AFS only) may be deemed to meet the Target Market requirement by virtue of serving either:

(A) an Investment Area through "borrowers or investees" that serve the Investment Area or provide significant benefits to its residents (pursuant to 12 CFR 1805.201(b)(3)(ii)(F)). For purposes of this NOGA, the term "borrower" or "investee" includes a borrower of a loan originated by the Controlling CDFI that has been transferred to the Affiliate as lender (which loan must meet Secondary Loan Requirements), pursuant to an operating agreement with the Affiliate that includes ownership/investment and management provisions, which agreement must be in effect prior to the submission of a CDFI Certification Application and in form and substance that is acceptable to the CDFI Fund. Loans originated by the Controlling CDFI do not need to be transferred prior to application submission; however, such loans must be transferred before certification of the Affiliate is effective. If an Affiliate has more than one Controlling CDFI, it may meet this Investment Area requirement through one or more of such Controlling CDFIs' Investment Areas; or

(B) a Targeted Population, which shall mean the individuals, who are Low Income persons or lack adequate access to Financial Products or Financial Services in the entity's Target Market meeting the requirements of 12 CFR 1805.201(b)(3)(iii) of the CDFI Program Regulations as designated in the Recipient's most recently approved CDFI certification documentation.

Pursuant to 12 CFR

1805.201(b)(3)(iii)(B) if a loan originated by the Controlling CDFI has been transferred to the Affiliate as lender (which loan must meet Secondary Loan Requirements) and the Controlling CDFI's financing entity activities serve the Affiliate's Targeted Population pursuant to an operating agreement that includes ownership/investment and management provisions by and between the Affiliate and the Controlling CDFI, which agreement must be in effect prior to the submission of a CDFI Certification Application and in form and substance that is acceptable to the CDFI Fund. Loans originated by the Controlling CDFI do not need to be transferred prior to application submission; however, such loans must be transferred before certification of the Affiliate is effective. If an Affiliate has more than one Controlling CDFI, it may meet this Targeted Population requirement through one or more of such Controlling CDFIs' Targeted Populations.

An Affiliate that meets the Target Market requirement through paragraphs (ii)(A) or (B) above, is not eligible to receive financial or technical assistance awards or tax credit allocations under any other CDFI Fund program until such time that the Affiliate meets the Target Market requirements based on its own activity or track record.

ii. If an Affiliate elects to satisfy the target market requirement based on paragraphs (c)(ii)(A) or (B) above, the Affiliate and the Controlling CDFI must have entered into the operating agreement as described above, prior to the date that the CDFI Certification Application is submitted, in form and substance that is acceptable to the CDFI Fund.

d. Development Services requirement (12 CFR 1805.201(b)(4)): To be a Certified CDFI, an entity must provide Development Services in conjunction with its Financial Products and/or Financial Services. Solely for the purpose of participation as an Eligible CDFI in the FY 2026 application round of the CDFI Bond Guarantee Program, an Affiliate of a Controlling CDFI (related to AFS only) may be deemed to meet this requirement if: (i) its Development Services are provided by the Controlling CDFI pursuant to an operating agreement that includes management and ownership provisions with the Controlling CDFI that is effective prior to the submission of a CDFI Certification Application and in form and substance that is acceptable to the CDFI Fund and (ii) the Controlling CDFI must have provided Development Services in conjunction with the transactions that the Affiliate is likely to purchase, prior

to the date of submission of the CDFI Certification Application.

e. Accountability requirement (12 CFR 1805.201(b)(5)): To be a Certified CDFI, an entity must maintain accountability to residents of its Investment Area or Targeted Population through representation on its governing board and/or advisory board(s). Solely for the purpose of participation as an Eligible CDFI in the FY 2026 application round of the CDFI Bond Guarantee Program, an Affiliate of a Controlling CDFI (related to AFS only) may be deemed to meet this requirement only if it has a governing board and/or advisory board that has the same composition as the Controlling CDFI and such governing board or advisory board has convened and/or conducted Affiliate business prior to the date of submission of the CDFI Certification Application. If an Affiliate has multiple Controlling CDFIs, the governing board and/or advisory board may have a mixture of representatives from each Controlling CDFI so long as there is at least one representative from each Controlling CDFI.

f. Non-government Entity requirement (12 CFR 1805.201(b)(6)): To be a Certified CDFI, an entity can neither be a government entity nor be Controlled by one or more governmental entities.

g. For the FY 2026 application round of the CDFI Bond Guarantee Program, only one Affiliate per Controlling CDFI may participate as an Eligible CDFI. However, there may be more than one Affiliate participating as an Eligible CDFI in any given Bond Issue.

3. Operating agreement: An operating agreement between an Affiliate and its Controlling CDFI, as described above, must provide, in addition to the elements set forth above, among other items: (i) conclusory evidence that the Controlling CDFI Controls the Affiliate, through investment and/or ownership; (ii) explanation of all roles, responsibilities and activities to be performed by the Controlling CDFI including, but not limited to, governance, financial management, loan underwriting and origination, record-keeping, insurance, treasury services, human resources and staffing, legal counsel, dispositions, marketing, general administration, and financial reporting; (iii) compensation arrangements; (iv) the term and termination provisions; (v) indemnification provisions, if applicable; (vi) management and ownership provisions; and (vii) default and recourse provisions.

4. For more detailed information on CDFI Certification requirements, please review the CDFI Certification regulation

(12 CFR 1805.201) and CDFI Certification Application materials/guidance posted on the CDFI Fund's website. Interested parties should note that there are specific regulations and requirements that apply to Depository Institution Holding Companies, Insured Depository Institutions, Insured Credit Unions, and State-Insured Credit Unions. The above Certification requirements may be revised or further explained by guidance published by the CDFI Fund. The applicant should refer to such materials to ensure it meets Certification requirements that are in effect when it applies.

5. For the 2026 application round, uncertified entities, including an Affiliate of a Controlling CDFI (related to AFS only), that wish to apply to be certified and designated as an Eligible CDFI in the FY 2026 application round of the CDFI Bond Guarantee Program must have submitted a CDFI Certification Application to the CDFI Fund by 11:59 p.m. ET on July 2, 2026. Any CDFI Certification Application received after such date and time, as well as incomplete applications, will not be considered for the FY 2026 application round of the CDFI Bond Guarantee Program.

6. In no event will the Secretary approve a Guarantee for a Bond from which a Bond Loan will be made to an entity that is not an Eligible CDFI. The Secretary must make FY 2026 Guarantee Application decisions prior to the end of FY 2026 (September 30, 2026), and the CDFI Fund must close the corresponding Bonds and Bond Loans, prior to the end of Calendar Year 2026 (December 31, 2026). Accordingly, it is essential that CDFI Certification Applications are submitted timely and in complete form, with all materials and information needed for the CDFI Fund to make a Certification decision. Information on CDFI Certification, the CDFI Certification Application, and application submission instructions may be found on the CDFI Fund's website.

B. Recourse and Collateral Requirements.

1. General Recourse Structure (GRS). Under the GRS, the Bond is a nonrecourse obligation to the Qualified Issuer, and the Bond Loan is a full general recourse obligation to the Eligible CDFI.

2. Alternative Financial Structure (AFS). An AFS can be used as a limited recourse option to a Controlling CDFI or group of Controlling CDFIs. The AFS is an Affiliate of a Controlling CDFI(s) that is created for the sole purpose of participation as an Eligible CDFI in the CDFI Bond Guarantee Program. The

AFS must be an Affiliate of a Controlling CDFI(s) and must be certified as a CDFI in accordance with the requirements set forth in Section II(A) of this NOGA. The AFS, as the Eligible CDFI, provides a general full recourse obligation to repay the Bond Loan, and the Bond Loan is on the balance sheet of the AFS. The requirements for the AFS are delineated in the template term sheet located on the CDFI Fund website at <https://www.cdfifund.gov/programs-training/Programs/cdfi-bond/Pages/apply-step.aspx#step2>.

C. Application Submission.

1. Electronic submission. All Qualified Issuer Applications and Guarantee Applications must be submitted through the CDFI Fund's Awards Management Information System (AMIS). Applications sent by mail, fax, or other form will not be permitted, except in circumstances that the CDFI Fund, in its sole discretion, deems acceptable. Please note that Applications will no longer be accepted through *Grants.gov*. For more information on AMIS, please visit the AMIS Landing Page at <https://amis.cdfifund.gov>.

2. Applicant identifier numbers. Please note that, pursuant to Office of Management and Budget (OMB) guidance (68 FR 38402), each Qualified Issuer applicant and Guarantee applicant must provide, as part of its Application, its Unique Entity Identifier (UEI), if applicable, as well as UEI numbers for its proposed Program Administrator, its proposed Servicer, and each Certified CDFI that is included in the Qualified Issuer Application and Guarantee Application. The UEI, generated in the System for Award Management (*SAM.gov*), has become the official identifier for doing business with the federal government. If an entity is registered in *SAM.gov* today, its UEI has already been assigned and is viewable in *SAM.gov*, including inactive registrations. New registrants will be assigned a UEI as part of their *SAM* registration. In addition, each Application must include a valid and current Employer Identification Number (EIN), with a letter or other documentation from the IRS confirming the Qualified Issuer applicant's EIN, as well as EINs for its proposed Program Administrator, its proposed Servicer, and each Certified CDFI that is included in any Application. An Application that does not include such UEI numbers, EINs, and documentation is incomplete and will be rejected by the CDFI Fund. Applicants should allow sufficient time for the IRS and/or *SAM.gov* to respond

to inquiries and/or requests for the required identification numbers.

3. System for Award Management (SAM). Registration with SAM is required for each Qualified Issuer applicant, its proposed Program Administrator, its proposed Servicer, and each Certified CDFI that is included in any Application. The CDFI Fund will not consider any Applications that do not meet the requirement that each entity must be properly registered before the date of Application submission. When accessing *SAM.gov*, users will be asked to create a *Login.gov* user account (if they don't already have one). Going forward, users will use their *Login.gov* username and password every time when logging into *SAM.gov*. The SAM registration process may take one month or longer to complete. This requirement is applicable to new entities registering in SAM or an existing registration where there is no existing entity administrator. Existing entities with registered entity administrators do not need to submit an annual notarized letter. Applicants without EIN numbers should allow for additional time as an applicant cannot register in SAM without an EIN. Applicants that have previously completed the SAM registration process must verify that their SAM accounts are current and active. Each applicant must continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an Application under consideration by a Federal awarding agency. The CDFI Fund will not consider any applicant that fails to properly register or activate its SAM account, and these restrictions also apply to organizations that have not yet received a UEI or EIN number.

Applicants must contact SAM directly with questions related to registration or SAM account changes as the CDFI Fund does not maintain this system and has no ability to make changes or correct errors of any kind. For more information about SAM, visit <https://www.sam.gov>.

4. AMIS accounts. Each Qualified Issuer applicant, its proposed Program Administrator, its proposed Servicer, and each Certified CDFI that is included in the Qualified Issuer Application or Guarantee Application must register User and Organization accounts in AMIS. Each such entity must be registered as an Organization and register at least one User Account in AMIS. As AMIS is the CDFI Fund's primary means of communication with applicants with regard to its programs, each such entity must make sure that it updates the contact information in its AMIS account before any Application is submitted. For more information on

AMIS, please visit the AMIS Landing Page at <https://amis.cdfifund.gov>.

D. Form of Application.

1. As of the date of this NOGA, the Qualified Issuer Application, the Guarantee Application, and related application instructions for this round may be found on the CDFI Bond Guarantee Program's page on the CDFI Fund's website at <https://www.cdfifund.gov/programs-training/programs/cdfi-bond>.

2. Paperwork Reduction Act. Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. Pursuant to the Paperwork Reduction Act, the Qualified Issuer Application, the Guarantee Application, and the Secondary Loan Requirements have been assigned the following control number: 1559-0044.

3. Application deadlines. In order to be considered for the issuance of a Guarantee under FY 2026 program authority, Qualified Issuer Applications must be submitted by 11:59 p.m. ET on July 7, 2026, and Guarantee Applications must be submitted by 11:59 p.m. ET on July 8, 2026. Qualified Issuer Applications and Guarantee Applications received in FY 2025 that were neither withdrawn nor declined will be considered under FY 2026 authority. If applicable, CDFI Certification Applications must be received by the CDFI Fund by 11:59 p.m. ET on July 2, 2026.

4. Format. Detailed Qualified Issuer Application and Guarantee Application content requirements are found in the Applications and application guidance. The CDFI Fund will read only information requested in the Application and reserves the right not to read attachments or supplemental materials that have not been specifically requested in this NOGA, the Qualified Issuer, or the Guarantee Application. Supplemental materials or attachments such as letters of public support or other statements that are meant to bias or influence the Application review process will not be read.

5. Application revisions. After submitting a Qualified Issuer Application or a Guarantee Application, the applicant will not be permitted to revise or modify the Application in any way unless authorized or requested by the CDFI Fund.

6. Material changes.

a. In the event that there are material changes after the submission of a Qualified Issuer Application prior to the designation as a Qualified Issuer, the

applicant must notify the CDFI Fund of such material changes information in a timely and complete manner. The CDFI Fund will evaluate such material changes, along with the Qualified Issuer Application, to approve or deny the designation of the Qualified Issuer.

b. In the event that there are material changes after the submission of a Guarantee Application (including, but not limited to, a revision of the Capital Distribution Plan or a change in the Eligible CDFIs that are included in the Application) prior to or after the designation as a Qualified Issuer or approval of a Guarantee Application or Guarantee, the applicant must notify the CDFI Fund of such material changes information in a timely and complete manner. The Guarantor will evaluate such material changes, along with the Guarantee Application, to approve or deny the Guarantee Application and/or determine whether to modify the terms and conditions of the Agreement to Guarantee. This evaluation may result in a delay of the approval or denial of a Guarantee Application.

E. *Eligibility and completeness review.* The CDFI Fund will review each Qualified Issuer and Guarantee Application to determine whether it is complete and the applicant meets eligibility requirements described in the Regulations, this NOGA, and the Applications. If the CDFI Fund determines that additional information is needed to assess the Qualified Issuer's and/or the Certified CDFIs' ability to participate in and comply with the requirements of the CDFI Bond Guarantee Program, the CDFI Fund may require that the Qualified Issuer furnish additional, clarifying, confirming or supplemental information. Until such information is provided to the CDFI Fund, the Qualified Issuer Application and/or Guarantee Application will not be moved forward for the substantive review process. If the CDFI Fund requests such additional, clarifying, confirming or supplemental information, the Qualified Issuer must provide it within the timeframes requested by the CDFI Fund or the respective Application will be deemed incomplete. An incomplete Qualified Issuer Application or Guarantee Application, or one that does not meet eligibility requirements, will be rejected.

F. *Regulated entities.* In the case of Qualified Issuer applicants, proposed Program Administrators, proposed Servicers, and Certified CDFIs that are included in the Qualified Issuer Application or Guarantee Application that are Insured Depository Institutions and Insured Credit Unions, the CDFI Fund will consider information

provided by, and views of, the Appropriate Federal and State Banking Agencies. If any such entity is a CDFI bank holding company, the CDFI Fund will consider information provided by the Appropriate Federal Banking Agencies of the CDFI bank holding company and its CDFI bank(s). Throughout the Application review process, the CDFI Fund will consider financial safety and soundness information from the Appropriate Federal Banking Agency. Each regulated applicant must have a composite CAMELS/CAMEL rating of at least "3" and/or no material concerns from its regulator. The CDFI Fund also reserves the right to require a regulated applicant to improve safety and soundness conditions prior to being approved as a Qualified Issuer or Eligible CDFI. Each regulated Applicant must also have a CRA (Community Reinvestment Act) assessment rating of at least "Satisfactory" on its most recent examination.

G. Prior CDFI Fund recipients. All applicants must be aware that success under any of the CDFI Fund's other programs is not indicative of success under this NOGA. Prior CDFI Fund recipients should note the following:

1. Pending resolution of default or noncompliance. If a Qualified Issuer applicant, its proposed Program Administrator, its proposed Servicer, or any of the Certified CDFIs included in the Qualified Issuer Application or Guarantee Application is a prior recipient or allocatee under any CDFI Fund program and (i) it has submitted reports to the CDFI Fund that demonstrate default or noncompliance with a previously executed agreement with the CDFI Fund, and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in default or noncompliant with its previously executed agreement, the CDFI Fund will consider the Qualified Issuer Application or Guarantee Application pending full resolution, in the sole determination of the CDFI Fund, of the default or noncompliance.

2. Previous findings of default or noncompliance. If a Qualified Issuer applicant, its proposed Program Administrator, its proposed Servicer, or any of the Certified CDFIs included in the Qualified Issuer Application or Guarantee Application is a prior recipient or allocatee under any CDFI Fund program and the CDFI Fund has made a final determination that the entity is in default or noncompliant with a previously executed agreement with the CDFI Fund, but has not notified the entity that it is ineligible to apply for future CDFI Fund program

awards or allocations, the CDFI Fund will consider the Qualified Issuer Application or Guarantee Application. However, it is strongly advised that the entity take action to address such default or noncompliance finding, as repeat findings of default or noncompliance may result in the CDFI Fund determining the entity ineligible to participate in future CDFI Fund program rounds, which could result in any pending applications being deemed ineligible for further review. The CDFI Bond Guarantee Program staff cannot resolve compliance matters; instead, please contact the CDFI Fund's Office of Compliance Monitoring and Evaluation Unit (OCME) by AMIS Service Request if your organization has questions about its current compliance status or has been found not in compliance with a previously executed agreement with the CDFI Fund.

3. Ineligibility due to default or noncompliance. The CDFI Fund will not consider a Qualified Issuer Application or Guarantee Application if the applicant, its proposed Program Administrator, its proposed Servicer, or any of the Certified CDFIs included in the Qualified Issuer Application or Guarantee Application, is a prior recipient or allocatee under any CDFI Fund program and if, as of the date of Qualified Issuer Application or Guarantee Application submission, (i) the CDFI Fund has made a determination that such entity is in default or noncompliant with a previously executed agreement and (ii) the CDFI Fund has provided written notification that such entity is ineligible to apply for any future CDFI Fund program awards or allocations. Such entities will be ineligible to submit a Qualified Issuer or Guarantee Application, or be included in such submission, as the case may be, for such time period as specified by the CDFI Fund in writing. Additionally, regardless of whether a sanction or remedy is imposed, the CDFI Fund will not consider an Qualified Issuer Application or Guarantee Application if the applicant, its proposed Program Administrator, its proposed Servicer, or any of the Certified CDFIs included in the Qualified Issuer Application or Guarantee Application defaulted on a prior Allocation Agreement during the time period beginning 12 months prior to the Application deadline and ending with the FY 2026 Bond Guarantee announcement.

H. Review of Bond and Bond Loan documents. Each Qualified Issuer and proposed Eligible CDFI will be required to certify that its appropriate senior management, and its respective legal

counsel, has read the Regulations (set forth at 12 CFR part 1808, as well as the CDFI certification regulations set forth at 12 CFR 1805.201, as amended, and the environmental quality regulations set forth at 12 CFR part 1815) and the template Bond Documents and Bond Loan documents posted on the CDFI Fund's website including, but not limited to, the following: Bond Trust Indenture, Supplemental Indenture, Bond Loan Agreement, Promissory Note, Bond Purchase Agreement, Designation Notice, Secretary's Guarantee, Collateral Assignment, Reimbursement Note, Opinion of Bond Counsel, Opinion of Counsel to the Borrower, Escrow Agreement, and Closing Checklist.

I. Contact the CDFI Fund. A Qualified Issuer applicant, its proposed Program Administrator, its proposed Servicer, or any Certified CDFIs included in the Qualified Issuer Application or Guarantee Application that are prior CDFI Fund recipients and/or allocatees are advised to: (i) comply with requirements specified in CDFI Fund assistance, allocation, and/or award agreement(s), and (ii) contact the CDFI Fund to ensure that all necessary actions are underway for the disbursement or deobligation of any outstanding balance of said prior award(s). Any such parties that are unsure about the disbursement status of any prior award should submit a Service Request through that organization's AMIS Account.

All outstanding reporting and compliance questions should be directed to the Office of Compliance Monitoring and Evaluation help desk by AMIS Service Requests. The CDFI Fund will respond to applicants' reporting, compliance, or disbursement questions between the hours of 9:00 a.m. and 5:00 p.m. ET, starting on the date of the publication of this NOGA.

J. Evaluating prior award performance. In the case of a Qualified Issuer, a proposed Program Administrator, a proposed Servicer, or Certified CDFI that has received awards from other Federal programs, the CDFI Fund reserves the right to contact officials from the appropriate Federal agency or agencies to determine whether the entity is in compliance with current or prior award agreements, and to take such information into consideration before issuing a Guarantee. In the case of such an entity that has previously received funding through any CDFI Fund program, the CDFI Fund will review the entity's

compliance history with the CDFI Fund, including any history of providing late reports, and consider such history in the context of organizational capacity and the ability to meet future reporting requirements.

The CDFI Fund may also bar from consideration any such entity that has, in any proceeding instituted against it in, by, or before any court, governmental, or administrative body or agency, received a final determination within the three years prior to the date of publication of this NOGA indicating that the entity has discriminated on the basis of race, color, national origin, disability, age, marital status, receipt of income from public assistance, religion, or sex, including, but not limited, to discrimination under (i) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d *et seq.*), which prohibits discrimination on the basis of race, color, or national origin; (ii) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681 *et seq.*), which prohibits discrimination on the basis of sex; (iii) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of disability; (iv) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101–6107), which prohibits discrimination on the basis of age; (v) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (vi) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (vii) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (viii) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (ix) the American with Disabilities Act of 1990, as amended (42 U.S.C. 12101 *et seq.*); and (x) the requirements of any other nondiscrimination statutes or regulations which may apply to the CDFI Bond Guarantee Program.

K. Civil Rights and Diversity. Any person who is eligible to receive benefits or services from the CDFI Fund or Recipients under any of its programs or activities is entitled to those benefits or services without being subject to prohibited discrimination. The Department of the Treasury's Office of Civil Rights and Equal Employment Opportunity enforces various Federal

statutes and regulations that prohibit discrimination in financially assisted and conducted programs and activities of the CDFI Fund. If a person believes that they have been subjected to discrimination and/or reprisal because of membership in a protected group, they may file a complaint with: Director, Office of Civil Rights, and Equal Employment Opportunity, 1500 Pennsylvania Ave. NW, Washington, DC 20220 or (202) 622–1160 (not a toll-free number).

L. Statutory and national policy requirements. The CDFI Fund will manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with the U.S. Constitution, Federal Law, and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

M. Changes to review procedures. The CDFI Fund reserves the right to change its completeness, eligibility and evaluation criteria, and procedures if the CDFI Fund deems it appropriate. If such changes materially affect the CDFI Fund's decision to approve or deny a Qualified Issuer Application, the CDFI Fund will provide information regarding the changes through the NOGA or direct communication to applicants, as appropriate.

N. Decisions are final. The CDFI Fund's Qualified Issuer Application decisions are final. The CDFI Fund may award less than the amount of the Guarantee authority requested by the Applicant either due to the results of the substantive review and approval process outlined in Section III.C and/or in order to maximize the number of Guarantees issued under the available Guarantee authority. The Guarantor's Guarantee Application decisions are final. There is no right to appeal the decisions. Any applicant that is not approved by the CDFI Fund or the Guarantor may submit a new Application and will be considered based on the newly submitted Application. Such newly submitted Applications will be reviewed along with all other pending Applications in the order in which they are received, or by such other criteria that the CDFI Fund may establish, in its sole discretion.

III. Qualified Issuer Application

A. General. This NOGA invites interested parties to submit a Qualified Issuer Application to be approved as a Qualified Issuer under the CDFI Bond Guarantee Program.

1. Qualified Issuer. The Qualified Issuer is a Certified CDFI, or an entity designated by a Certified CDFI to issue Bonds on its behalf, that meets the requirements of the Regulations and this NOGA, and that has been approved by the CDFI Fund pursuant to review and evaluation of its Qualified Issuer Application. The Qualified Issuer will, among other duties: (i) organize the Eligible CDFIs that have designated it to serve as their Qualified Issuer; (ii) prepare and submit a complete and timely Qualified Issuer and Guarantee Application to the CDFI Fund; (iii) if the Qualified Issuer Application is approved by the CDFI Fund and the Guarantee Application is approved by the Guarantor, prepare the Bond Issue; (iv) manage all Bond Issue servicing, administration, and reporting functions; (v) make Bond Loans; (vi) oversee the financing or refinancing of Secondary Loans; (vii) ensure compliance throughout the duration of the Bond with all provisions of the Regulations, and Bond Documents and Bond Loan Documents entered into between the Guarantor, the Qualified Issuer, and the Eligible CDFI; and (viii) ensure that the Master Servicer/Trustee complies with the Bond Trust Indenture and all other applicable regulations. Further, the role of the Qualified Issuer also is to ensure that its proposed Eligible CDFI applicants possess adequate and well-performing assets to support the debt service of the proposed Bond Loan.

2. Qualified Issuer Application. The Qualified Issuer Application is the document that an entity seeking to serve as a Qualified Issuer submits to the CDFI Fund to apply to be approved as a Qualified Issuer prior to consideration of a Guarantee Application.

3. Qualified Issuer Application evaluation, general. Each Qualified Issuer Application will be evaluated by the CDFI Fund and, if acceptable, the applicant will be approved as a Qualified Issuer, in the sole discretion of the CDFI Fund. The CDFI Fund's Qualified Issuer Application review and evaluation process is based on established procedures, which may include interviews of applicants and/or site visits to applicants conducted by the CDFI Fund. Through the Application review process, the CDFI Fund will evaluate Qualified Issuer applicants on a merit basis and in a fair and consistent manner. Each Qualified Issuer applicant will be reviewed on its ability to successfully carry out the responsibilities of a Qualified Issuer throughout the life of the Bond. The Applicant must currently meet the criteria established in the Regulations to be deemed a Qualified Issuer. Qualified

Issuer Applications that are forward-looking or speculate as to the eventual acquisition of the required capabilities and criteria are unlikely to be approved. Qualified Issuer Application processing will be initiated in chronological order by date of receipt; however, Qualified Issuer Applications that are incomplete or require the CDFI Fund to request additional or clarifying information may delay the ability of the CDFI Fund to deem the Qualified Issuer Application complete and move it to the next phase of review. Submitting a substantially incomplete application earlier than other applicants does not ensure first approval.

B. Qualified Issuer Application: Eligibility.

1. CDFI Certification requirements. The Qualified Issuer applicant must be a Certified CDFI or an entity designated by a Certified CDFI to issue Bonds on its behalf.

2. Designation and attestation by Certified CDFIs. An entity seeking to be approved by the CDFI Fund as a Qualified Issuer must be designated as a Qualified Issuer by at least one Certified CDFI. A Qualified Issuer may not designate itself. The Qualified Issuer applicant will prepare and submit a complete and timely Qualified Issuer Application to the CDFI Fund in accordance with the requirements of the Regulations, this NOGA, and the Application. A Certified CDFI must attest in the Qualified Issuer Application that it has designated the Qualified Issuer to act on its behalf and that the information in the Qualified Issuer Application regarding it is true, accurate, and complete.

C. Substantive review and approval process.

1. Substantive review.

a. If the CDFI Fund determines that the Qualified Issuer Application is complete and eligible, the CDFI Fund will undertake a substantive review in accordance with the criteria and procedures described in the Regulations, this NOGA, the Qualified Issuer Application, and CDFI Bond Guarantee Program policies.

b. As part of the substantive evaluation process, the CDFI Fund reserves the right to contact the Qualified Issuer applicant (as well as its proposed Program Administrator, its proposed Servicer, and each designating Certified CDFI in the Qualified Issuer Application) by telephone, email, mail, or through on-site visits for the purpose of obtaining additional, clarifying, confirming, or supplemental application information. The CDFI Fund reserves the right to collect such additional, clarifying, confirming, or supplemental

information from said entities as it deems appropriate. If contacted for additional, clarifying, confirming, or supplemental information, said entities must respond within the time parameters set by the CDFI Fund or the Qualified Issuer Application will be rejected.

2. Qualified Issuer criteria. All materials provided in the Qualified Issuer Application will be used to evaluate the applicant. Qualified Issuer determinations will be made based on Qualified Issuer applicants' experience and expertise, in accordance with the following criteria:

a. Organizational capability.

i. The Qualified Issuer applicant must demonstrate that it has the appropriate expertise, capacity, experience, and qualifications to issue Bonds for Eligible Purposes, or is otherwise qualified to serve as Qualified Issuer, as well as manage the Bond Issue on the terms and conditions set forth in the Regulations, this NOGA, and the Bond Documents, satisfactory to the CDFI Fund.

ii. The Qualified Issuer applicant must demonstrate that it has the appropriate expertise, capacity, experience, and qualifications to originate, underwrite, service and monitor Bond Loans for Eligible Purposes, targeted to Low-Income Areas and Underserved Rural Areas.

iii. The Qualified Issuer applicant must demonstrate that it has the appropriate expertise, capacity, experience, and qualifications to manage the disbursement process set forth in the Regulations at 12 CFR 1808.302 and 1808.307.

b. Servicer. The Qualified Issuer applicant must demonstrate that it has (either directly or contractually through another designated entity) the appropriate expertise, capacity, experience, and qualifications, or is otherwise qualified to serve as Servicer. The Qualified Issuer Application must provide information that demonstrates that the Qualified Issuer's Servicer has the expertise, capacity, experience, and qualifications necessary to perform certain required administrative duties (including, but not limited to, Bond Loan servicing functions).

c. Program Administrator. The Qualified Issuer applicant must demonstrate that it has (either directly or contractually through another designated entity) the appropriate expertise, capacity, experience, and qualifications, or is otherwise qualified to serve as Program Administrator. The Qualified Issuer Application must provide information that demonstrates that the Qualified Issuer's Program Administrator has the expertise,

capacity, experience, and qualifications necessary to perform certain required administrative duties (including, but not limited to, compliance monitoring and reporting functions).

d. Strategic alignment. The Qualified Issuer applicant will be evaluated on its strategic alignment with the CDFI Bond Guarantee Program on factors that include, but are not limited to: (i) its mission's strategic alignment with community and economic development objectives set forth in the Riegle Act at 12 U.S.C. 4701; (ii) its strategy for deploying the entirety of funds that may become available to the Qualified Issuer through the proposed Bond Issue; (iii) its experience providing up to 30-year capital to CDFIs or other borrowers in Low-Income Areas or Underserved Rural Areas as such terms are defined in the Regulations at 12 CFR 1808.102; (iv) its track record of activities relevant to its stated strategy; and (v) other factors relevant to the Qualified Issuer's strategic alignment with the program, including the extent to which the Qualified Issuer's existing loan and investment portfolios align with Administration priorities.

e. Experience. The Qualified Issuer applicant will be evaluated on factors that demonstrate that it has previous experience: (i) performing the duties of a Qualified Issuer including issuing bonds, loan servicing, program administration, underwriting, financial reporting, and loan administration; (ii) lending in Low-Income Areas and Underserved Rural Areas; and (iii) indicating that the Qualified Issuer's current principals and team members have successfully performed the required duties, and that previous experience is applicable to the current principals and team members.

f. Management and staffing. The Qualified Issuer applicant must demonstrate that it has sufficiently strong management and staffing capacity to undertake the duties of Qualified Issuer. The applicant must also demonstrate that its proposed Program Administrator and its proposed Servicer have sufficiently strong management and staffing capacity to undertake their respective requirements under the CDFI Bond Guarantee Program. Strong management and staffing capacity are evidenced by factors that include, but are not limited to: (i) a sound track record of delivering on past performance; (ii) a documented succession plan; (iii) organizational stability including staff retention; and (iv) a clearly articulated, reasonable, and well-documented staffing plan.

g. Financial strength. The Qualified Issuer applicant must demonstrate the

strength of its financial capacity and activities including, among other items, financially sound business practices relative to the industry norm for bond issuers, as evidenced by reports of Appropriate Federal Banking Agencies, Appropriate State Agencies, or auditors. Such financially sound business practices will demonstrate: (i) the financial wherewithal to perform activities related to the Bond Issue such as administration and servicing; (ii) the ability to originate, underwrite, close, and disburse loans in a prudent manner; (iii) whether the applicant is depending on external funding sources and the reliability of long-term access to such funding; (iv) whether there are foreseeable counterparty issues or credit concerns that are likely to affect the applicant's financial stability; and (v) a budget that reflects reasonable assumptions about upfront costs as well as ongoing expenses and revenues.

h. Systems and information technology. The Qualified Issuer applicant must demonstrate that it (as well as its proposed Program Administrator and its proposed Servicer) has, among other things: (i) a strong information technology capacity and the ability to manage loan servicing, administration, management, and document retention; (ii) appropriate office infrastructure and related technology to carry out the CDFI Bond Guarantee Program activities; and (iii) sufficient backup and disaster recovery systems to maintain uninterrupted business operations.

i. Pricing structure. The Qualified Issuer applicant must provide its proposed pricing structure for performing the duties of Qualified Issuer, including the pricing for the roles of Program Administrator and Servicer. Although the pricing structure and fees shall be decided by negotiation between market participants without interference or approval by the CDFI Fund, the CDFI Fund will evaluate whether the Qualified Issuer applicant's proposed pricing structure is feasible to carry out the responsibilities of a Qualified Issuer over the life of the Bond to help ensure sound implementation of the program.

j. Other criteria. The Qualified Issuer applicant must meet such other criteria as may be required by the CDFI Fund, as set forth in the Qualified Issuer Application or required by the CDFI Fund in its sole discretion, for the purposes of evaluating the merits of a Qualified Issuer Application. The CDFI Fund may request an on-site review of Qualified Issuer applicant to confirm materials provided in the written application, as well as to gather

additional due diligence information. The on-site reviews are a critical component of the application review process and will generally be conducted for all applicants not regulated by an Appropriate Federal Banking Agency or Appropriate State Agency. The CDFI Fund reserves the right to conduct a site visit of regulated entities, in its sole discretion.

k. Third-party data sources. The CDFI Fund, in its sole discretion, may consider information from third-party sources including, but not limited to, periodicals or publications, publicly available data sources, or subscriptions services for additional information about the Qualified Issuer applicant, the proposed Program Administrator, the proposed Servicer, and each Certified CDFI that is included in the Qualified Issuer Application. Any additional information received from such third-party sources will be reviewed and evaluated through a systematic and formalized process.

D. Notification of Qualified Issuer determination. Each Qualified Issuer applicant will be informed of the CDFI Fund's decision in writing, by email using the addresses maintained in the entity's AMIS account. The CDFI Fund will not notify the proposed Program Administrator, the proposed Servicer, or the Certified CDFIs included in the Qualified Issuer Application of its decision regarding the Qualified Issuer Application; such contacts are the responsibility of the Qualified Issuer applicant.

E. Qualified Issuer Application rejection. In addition to substantive reasons based on the merits of its review, the CDFI Fund reserves the right to reject a Qualified Issuer Application if information (including administrative errors) comes to the attention of the CDFI Fund that adversely affects an applicant's eligibility, adversely affects the CDFI Fund's evaluation of a Qualified Issuer Application, or indicates fraud or mismanagement on the part of a Qualified Issuer applicant or its proposed Program Administrator, its proposed Servicer, and any Certified CDFI included in the Qualified Issuer Application. If the CDFI Fund determines that any portion of the Qualified Issuer Application is incorrect in any material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the Application.

IV. Guarantee Applications

A. This NOGA invites Qualified Issuers to submit a Guarantee Application to be approved for a Guarantee under the CDFI Bond Guarantee Program.

1. Guarantee Application.

a. The Guarantee Application is the application document that a Qualified Issuer (in collaboration with the Eligible CDFI(s) that seek to be included in the proposed Bond Issue) must submit to the CDFI Fund in order to apply for a Guarantee. The Qualified Issuer shall provide all required information in its Guarantee Application to establish that it meets all criteria set forth in the Regulations at 12 CFR 1808.501 and this NOGA and can carry out all CDFI Bond Guarantee Program requirements including, but not limited to, information that demonstrates that the Qualified Issuer has the appropriate expertise, capacity, and experience and is qualified to make, administer and service Bond Loans for Eligible Purposes. An Eligible CDFI may be an existing Certified or Certifiable CDFI (the GRS), or the Eligible CDFI may be an Affiliate of a Controlling CDFI(s) that is created for the sole purpose of participation as an Eligible CDFI in the CDFI Fund Bond Guarantee Program (the AFS; see Section II(B) of this NOGA for Recourse and Collateral Requirements and Section II(A) of this NOGA for Certification requirements for Certifiable CDFIs and Affiliates of Controlling CDFIs).

b. The Guarantee Application comprises a Capital Distribution Plan and at least one Secondary Capital Distribution Plan, as well as all other requirements set forth in this NOGA or as may be required by the Guarantor and the CDFI Fund in their sole discretion, for the evaluation and selection of Guarantee applicants.

2. Guarantee Application evaluation, general. The Guarantee Application review and evaluation process will be based on established standard procedures, which may include interviews with applicants and/or site visits to applicants conducted by the CDFI Fund. Through the Application review process, the CDFI Fund will evaluate Guarantee applicants on a merit basis and in a fair and consistent manner. Each Guarantee applicant will be reviewed on its ability to successfully implement and carry out the activities proposed in its Guarantee Application throughout the life of the Bond. Eligible CDFIs must currently meet the criteria established in the Regulations to participate in the CDFI Bond Guarantee Program. Guarantee Applications that are forward-looking or speculate as to the eventual acquisition of the required capabilities and criteria by the Eligible CDFI(s) are unlikely to be approved. Guarantee Application processing will be initiated in chronological order by date of receipt; however, Guarantee

Applications that are incomplete or require the CDFI Fund to request additional or clarifying information may delay the ability of the CDFI Fund to deem the Guarantee Application complete and move it to the next phase of review. Submitting a substantially incomplete application earlier than other applicants does not ensure first approval.

B. Guarantee Application: eligibility.

1. Eligibility; CDFI Certification requirements. If approved for a Guarantee, each Eligible CDFI must be a Certified CDFI as of the Bond Issue Date and must maintain its respective CDFI Certification throughout the term of the corresponding Bond. For more information on CDFI Certification and the Certification of affiliated entities, including the deadlines for submission of Certification applications, see part II of this NOGA.

2. Qualified Issuer as Eligible CDFI. A Qualified Issuer may not participate as an Eligible CDFI within its own Bond Issue but may participate as an Eligible CDFI in a Bond Issue managed by another Qualified Issuer.

3. Attestation by proposed Eligible CDFIs. Each proposed Eligible CDFI must attest in the Guarantee Application that it has designated the Qualified Issuer to act on its behalf and that the information pertaining to the Eligible CDFI in the Guarantee Application is true, accurate and complete. Each proposed Eligible CDFI must also attest in the Guarantee Application that it will use Bond Loan proceeds for Eligible Purposes and that Secondary Loans will be financed or refinanced in accordance with the applicable Secondary Loan Requirements.

C. Guarantee Application: preparation. When preparing the Guarantee Application, the Eligible CDFIs and Qualified Issuer must collaborate to determine the composition and characteristics of the Bond Issue, ensuring compliance with the Act, the Regulations, and this NOGA. The Qualified Issuer is responsible for the collection, preparation, verification, and submission of the Eligible CDFI information that is presented in the Guarantee Application. The Qualified Issuer will submit the Guarantee Application for the proposed Bond Issue, including any information provided by the proposed Eligible CDFIs. In addition, the Qualified Issuer will serve as the primary point of contact with the CDFI Fund during the Guarantee Application review and evaluation process.

D. Review and approval process.

1. Substantive review.

a. If the CDFI Fund determines that the Guarantee Application is complete and eligible, the CDFI Fund will undertake a substantive review in accordance with the criteria and procedures described in the Regulations at 12 CFR 1808.501, this NOGA, and the Guarantee Application. The substantive review of the Guarantee Application will include due diligence, underwriting, credit risk review, and Federal credit subsidy calculation, in order to determine the feasibility and risk of the proposed Bond Issue, as well as the strength and capacity of the Qualified Issuer and each proposed Eligible CDFI. Each proposed Eligible CDFI will be evaluated independently of the other proposed Eligible CDFIs within the proposed Bond Issue; however, the Bond Issue must then cumulatively meet all requirements for Guarantee approval. In general, applicants are advised that proposed Bond Issues that include many proposed Eligible CDFIs are likely to substantially increase the review period.

b. As part of the substantive review process, the CDFI Fund may contact the Qualified Issuer (as well as the proposed Eligible CDFIs included in the Guarantee Application) by telephone, email, mail, or through an on-site visit for the sole purpose of obtaining additional, clarifying, confirming, or supplemental application information. The CDFI Fund reserves the right to collect such additional, clarifying, confirming or supplemental information as it deems appropriate. If contacted for additional, clarifying, confirming, or supplemental information, said entities must respond within the time parameters set by the CDFI Fund or the Guarantee Application will be rejected.

2. Guarantee Application criteria.

a. In general, a Guarantee Application will be evaluated based on the strength and feasibility of the proposed Bond Issue, as well as the creditworthiness and performance of the Qualified Issuer and the proposed Eligible CDFIs. Guarantee Applications must demonstrate that each proposed Eligible CDFI has the capacity for its respective Bond Loan to be a secured, general recourse obligation of the proposed Eligible CDFI and to deploy the Bond Loan proceeds within the required disbursement timeframe as described in the Regulations. Unless receiving significant support from a Controlling CDFI, or Credit Enhancements, Eligible CDFIs should not request Bond Loans greater than their current total asset size, or which would otherwise significantly impair their net asset or net equity position. Furthermore, an applicant requesting a Bond Loan more than 50%

of its total asset size should be prepared to clearly demonstrate that it has a reasonable plan to scale its operations prudently and in a manner that does not impair its net asset or net equity position. An entity with a limited operating history or a history of operating losses is unlikely to meet the strength and feasibility requirements of the CDFI Bond Guarantee Program, unless it receives significant support from a Controlling CDFI, or Credit Enhancements.

b. The Capital Distribution Plan must demonstrate the Qualified Issuer's comprehensive plan for lending, disbursing, servicing and monitoring each Bond Loan in the Bond Issue. It includes, among other information, the following components:

i. Statement of Proposed Sources and Uses of Funds: Pursuant to the requirements set forth in the Regulations at 12 CFR 1808.102(bb) and 1808.301, the Qualified Issuer must provide: (A) a description of the overall plan for the Bond Issue; (B) a description of the proposed uses of Bond Proceeds and proposed sources of funds to repay principal and interest on the proposed Bond and Bond Loans; (C) a certification that 100% of the principal amount of the proposed Bond will be used to make Bond Loans for Eligible Purposes on the Bond Issue Date; and (D) description of the extent to which the proposed Bond Loans will serve Low-Income Areas or Underserved Rural Areas;

ii. Bond Issue Qualified Issuer cash flow model: The Qualified Issuer must provide a cash flow model displaying the orderly repayment of the Bond and the Bond Loans according to their respective terms. The cash flow model shall include disbursement and repayment of Bonds, Bond Loans, and Secondary Loans. The cash flow model shall match the aggregated cash flows from the Secondary Capital Distribution Plans of each of the underlying Eligible CDFIs in the Bond Issue pool. Such information must describe the expected distribution of asset classes to which each Eligible CDFI expects to disburse funds, the proposed disbursement schedule, quarterly or semi-annual amortization schedules, interest-only periods, maturity date of each advance of funds, and assumed net interest margin on Secondary Loans above the assumed Bond Loan rate;

iii. Organizational capacity: If not submitted concurrently, the Qualified Issuer must attest that no material changes have occurred since the time that it submitted the Qualified Issuer Application;

iv. Credit Enhancement (if applicable): The Qualified Issuer must provide information about the adequacy of proposed risk mitigation provisions designed to protect the financial interests of the Federal Government, either directly or indirectly, through supporting the financial strength of the Bond Issue. This includes, but is not limited to, the amount and quality of any Credit Enhancements, terms and specific conditions such as renewal options, and any limiting conditions or revocability by the provider of the Credit Enhancement. For any third party providing a Credit Enhancement, the Qualified Issuer must provide the following information on the third-party: most recent three years of audited financial statements, a brief analysis of such entity's creditworthiness, and an executed letter of intent from such entity that indicates the terms and conditions of the Credit Enhancement. Any Credit Enhancement must be pledged, as part of the Trust Estate, to the Master Servicer/Trustee for the benefit of the Federal Financing Bank;

v. Proposed Term Sheets: The CDFI Fund website includes template term sheets for the GRS, the AFS, and the asset class CDFI to Financing Entity utilizing pooled tertiary loans. For each Eligible CDFI that is part of the proposed Bond Issue, the Qualified Issuer must submit a proposed Term Sheet using the applicable template provided on the CDFI Fund's website. The proposed Term Sheet must clearly state all relevant and critical terms of the proposed Bond Loan including, but not limited to: the Bond Loan Collateral Requirements described in Section II(B) of this NOGA, any requested prepayment provisions, unique conditions precedent, proposed covenants and exact amounts/percentages for determining the Eligible CDFI's ability to meet program requirements, and terms and exact language describing any Credit Enhancements. Terms may be either altered and/or negotiated by the CDFI Fund in its sole discretion, based on the proposed structure in the application, to ensure that adequate protection is in place for the Guarantor;

vi. Secondary Capital Distribution Plan(s): Each proposed Eligible CDFI must provide a comprehensive plan for financing, disbursing, servicing and monitoring Secondary Loans, address how each proposed Secondary Loan will meet Eligible Purposes, and address such other requirements listed below that may be required by the Guarantor and the CDFI Fund. For each proposed Eligible CDFI relying, for CDFI Certification purposes, on the financing

entity activity of a Controlling CDFI, the Controlling CDFI must describe how the Eligible CDFI and the Controlling CDFI, together, will meet the requirements listed below:

(A) Narrative and Statement of Proposed Sources and Uses of Funds: Each Eligible CDFI will: (1) provide a description of proposed uses of funds, including the extent to which Bond Loans will serve Low-Income Areas or Underserved Rural Areas, and how they will advance Administration priorities, as well as the extent to which Bond Loan proceeds will be used (i) to make the first monthly installment of a Bond Loan payment, (ii) pay Issuance Fees up to 1% of the Bond Loan, and (iii) finance Loan Loss Reserves related to Secondary Loans; (2) attest that 100% of Bond Loan proceeds designated for Secondary Loans will be used to finance or refinance Secondary Loans that meet Secondary Loan Requirements; (3) describe a plan for financing, disbursing, servicing, and monitoring Secondary Loans; (4) indicate the expected asset classes to which it will lend under the Secondary Loan Requirements; (5) indicate examples of previous lending and years of experience lending to a specific asset class, especially with regards to the number and dollar volume of loans made in the five years prior to application submission to the specific asset classes to which an Eligible CDFI is proposing to lend Bond Loan proceeds; (6) provide a table detailing specific uses and timing of disbursements, including terms and relending plans if applicable; and (7) a community impact analysis, including how the proposed Secondary Loans will address financing needs that the private market is not adequately serving and specific community benefit metrics;

(B) Eligible CDFI cash flow model: Each Eligible CDFI must provide a cash flow model of the proposed Bond Loan which: (1) matches each Eligible CDFI's portion of the Qualified Issuer's cash flow model; and (2) tracks the flow of funds through the term of the Bond Issue and demonstrates disbursement and repayment of the Bond Loan, Secondary Loans, and any utilization of the Relending Fund, if applicable. Such information must describe: the expected distribution of asset classes to which each Eligible CDFI expects to disburse funds, the proposed disbursement schedule, quarterly or semi-annual amortization schedules, interest-only periods, maturity date of each advance of funds, and the assumed net interest margin on Secondary Loans above the assumed Bond Loan rate;

(C) Organizational capacity: Each Eligible CDFI must provide documentation indicating the ability of the Eligible CDFI to manage its Bond Loan including, but not limited to: (1) organizational ownership and a chart of affiliates; (2) organizational documents, including policies and procedures related to loan underwriting and asset management; (3) management or operating agreement, if applicable; (4) an analysis by management of its ability to manage the funding, monitoring, and collection of loans being contemplated with the proceeds of the Bond Loan; (5) information about its board of directors; (6) a governance narrative; (7) description of senior management and employee base; (8) independent reports, if available; (9) strategic plan or related progress reports; and (10) a discussion of the management and information systems used by the Eligible CDFI;

(D) Policies and procedures: Each Eligible CDFI must provide relevant policies and procedures including, but not limited to: a copy of the asset-liability matching policy, if applicable; and loan policies and procedures which address topics including, but not limited to: origination, underwriting, credit approval, interest rates, closing, documentation, asset management, and portfolio monitoring, risk-rating definitions, charge-offs, and loan loss reserve methodology;

(E) Financial statements: Each Eligible CDFI must provide information about the Eligible CDFI's current and future financial position, including but not limited to: (1) audited financial statements for the prior three (3) most recent Fiscal Years; (2) current year-to-date or interim financial statement for the immediately prior quarter end of the Fiscal Year; (3) a copy of the current year's approved budget or projected budget if the entity's Board has not yet approved such budget; and (4) a three (3) year pro forma projection of the statement of financial position or balance sheet, statement of activities or income statement, and statement of cash flows in the standardized template provided by the CDFI Fund;

(F) Loan portfolio information: Each Eligible CDFI must provide information including, but not limited to: (1) loan portfolio quality report; (2) pipeline report; (3) portfolio listing; (4) a description of other loan assets under management; (5) loan products; (6) independent loan review report; (7) impact report case studies; and (8) a loan portfolio by risk rating and loan loss reserves; and

(G) Funding sources and financial activity information: Each Eligible CDFI must provide information including, but

not limited to: (1) current grant information; (2) funding projections; (3) credit enhancements; (4) historical investor renewal rates; (5) covenant compliance; (6) off-balance sheet contingencies; (7) earned revenues; and (8) debt capital statistics.

vii. Assurances and certifications that not less than 100% of the principal amount of Bonds will be used to make Bond Loans for Eligible Purposes beginning on the Bond Issue Date, and that Secondary Loans shall be made as set forth in subsection 1808.307(b); and

viii. Such other information that the Guarantor, the CDFI Fund and/or the Bond Purchaser may deem necessary and appropriate.

c. The CDFI Fund will use the information described in the Capital Distribution Plan and Secondary Capital Distribution Plan(s) to evaluate the feasibility of the proposed Bond Issue, with specific attention paid to each Eligible CDFI's financial strength and organizational capacity. For each proposed Eligible CDFI relying, for CDFI certification purposes, on the financing entity activity of a Controlling CDFI, the CDFI Fund will pay specific attention to the Controlling CDFI's financial strength and organizational capacity as well as the operating agreement between the proposed Eligible CDFI and the Controlling CDFI. All materials provided in the Guarantee Application will be used to evaluate the proposed Bond Issue. In total, there are more than 100 individual criteria or sub-criteria used to evaluate each Eligible CDFI. Specific criteria used to evaluate each Eligible CDFI shall include, but not be limited to, the following criteria below. For each proposed Eligible CDFI relying, for CDFI certification purposes, on the financing entity activity of a Controlling CDFI, the following specific criteria will also be used to evaluate both the proposed Eligible CDFI and the Controlling CDFI:

i. Historical financial ratios: Ratios which together have been shown to be predictive of possible future default will be used as an initial screening tool, including total asset size, net asset or Tier 1 Core Capital ratio, self-sufficiency ratio, non-performing asset ratio, liquidity ratio, reserve over nonperforming assets, and yield cost spread;

ii. Quantitative and qualitative attributes under the "CAMELS" framework: After initial screening, the CDFI Fund will utilize a more detailed analysis under the "CAMELS" framework, including but not limited to the following. If a Guarantee Application receives a summary rating of materially deficient during the

CAMELS review the application will be recommended for denial.

(A) Capital Adequacy: Attributes such as the debt-to-equity ratio, status, and significance of off-balance sheet liabilities or contingencies, magnitude, and consistency of cash flow performance, exposure to affiliates for financial and operating support, trends in changes to capitalization, and other relevant attributes;

(B) Asset Quality: Attributes such as the charge-off ratio, adequacy of loan loss reserves, sector concentration, borrower concentration, asset composition, security and collateralization of the loan portfolio, trends in changes to asset quality, and other relevant attributes;

(C) Management: Attributes such as documented best practices in governance, strategic planning and board involvement, robust policies and procedures, tenured and experienced management team, organizational stability, infrastructure and information technology systems, and other relevant attributes;

(D) Earnings and Performance: Attributes such as net operating margins, deployment of funds, self-sufficiency, trends in earnings, and other relevant attributes;

(E) Liquidity: Attributes such as unrestricted cash and cash equivalents, ability to access credit facilities, access to grant funding, covenant compliance, affiliate relationships, concentration of funding sources (which may include BGP debt, other federal debt, and private debt), trends in liquidity, and other relevant attributes;

(F) Sensitivity: The CDFI Fund will stress test each Eligible CDFI's projected financial performance under scenarios that are specific to the unique circumstance and attributes of the organization. Additionally, the CDFI Fund will consider other relevant criteria that have not been adequately captured in the preceding steps as part of the due diligence process. Such criteria may include, but not be limited to, the size and quality of any third-party Credit Enhancements or other forms of credit support.

iii. Other criteria: (A) Overcollateralization: The commitment by an Eligible CDFI to over-collateralize a proposed Bond Loan with excess Secondary Loans is a criterion that may affect the viability of a Guarantee Application by decreasing the estimated net present value of the long-term cost of the Guarantee to the Federal Government, by decreasing the probability of default, and/or increasing the recovery rate in the event of default. An Eligible CDFI committing to

overcollateralization may not be required to deposit funds in the Relending Account, subject to the maintenance of certain unique requirements that are detailed in the template Agreement to Guarantee and Bond Loan Agreement.

(B) Credit Enhancements: The provision of third-party Credit Enhancements, including any Credit Enhancement from a Controlling CDFI or any other affiliated entity, is a criterion that may affect the viability of a Guarantee Application by decreasing the estimated net present value of the long-term cost of the Guarantee to the Federal Government. Credit Enhancements are considered in the context of the structure and circumstances of each Guarantee Application.

(C) On-Site Review: The CDFI Fund may request an on-site review of an Eligible CDFI to confirm materials provided in the written application, as well as to gather additional due diligence information. The on-site reviews are a critical component of the application review process and will generally be conducted for all applicants not regulated by an Appropriate Federal Banking Agency or Appropriate State Agency. The CDFI Fund reserves the right to conduct a site visit of regulated entities, in its sole discretion.

(D) Secondary Loan Asset Classes: Eligible CDFIs that propose to use funds for new products or lines of business must demonstrate that they have the organizational capacity to manage such activities in a prudent manner. Failure to demonstrate such organizational capacity may be factored into the consideration of Asset Quality or Management criteria as listed above in this section.

(E) Concentration: The CDFI Fund may, through the underwriting process, determine that an Eligible CDFI's participation in the Bond Guarantee Program creates an undue risk based on the concentration of assets, debt, or other factors with respect to the applicant's balance sheet or the distribution of commitments in the CDFI Fund's overall BGP portfolio.

3. Credit subsidy cost. The credit subsidy cost is the net present value of the estimated long-term cost of the Guarantee to the Federal Government as determined under the applicable provisions of the Federal Credit Reform Act of 1990, as amended (FCRA). Treasury has not received appropriated amounts from Congress to cover the credit subsidy costs associated with Guarantees issued pursuant to this NOGA. In accordance with FCRA,

Treasury must consult with, and obtain the approval of, OMB for Treasury's calculation of the credit subsidy cost of each Guarantee prior to entering into any Agreement to Guarantee.

E. Guarantee approval; Execution of documents.

1. The Guarantor, in the Guarantor's sole discretion, may approve a Guarantee, after consideration of the recommendation from the CDFI Bond Guarantee Program's Credit Review Board and/or based on the merits of the Guarantee Application.

2. The Guarantor reserves the right to approve Guarantees, in whole or in part, in response to any, all, or none of the Guarantee Applications submitted in response to this NOGA. The Guarantor also reserves the right to approve any Guarantees in an amount that is less than requested in the corresponding Guarantee Application. Pursuant to the Regulations at 12 CFR 1808.504(c), the Guarantor may limit the number of Guarantees made per year to ensure that a sufficient examination of Guarantee Applications is conducted.

3. The CDFI Fund will notify the Qualified Issuer in writing of the Guarantor's approval or disapproval of a Guarantee Application. Bond Documents and Bond Loan documents must be executed, and Guarantees will be provided, in the order in which Guarantee Applications are approved or by such other criteria that the CDFI Fund may establish, in its sole discretion, and in any event by September 30, 2026.

4. Please note that the most recently dated templates of Bond Documents and

Bond Loan documents that are posted on the CDFI Fund's website will not be substantially revised or negotiated prior to closing of the Bond and Bond Loan and issuance of the corresponding Guarantee. If a Qualified Issuer or a proposed Eligible CDFI does not understand the terms and conditions of the Bond Documents or Bond Loan documents (including those listed in Section II.H., above), it should ask questions or seek technical assistance from the CDFI Fund. However, if a Qualified Issuer or a proposed Eligible CDFI disagrees or is uncomfortable with any term/condition, or if legal counsel cannot provide a legal opinion in substantially the same form and content of the required legal opinion, it should not apply for a Guarantee.

5. The Guarantee shall not be effective until the Guarantor signs and delivers the Guarantee.

F. Guarantee denial. The Guarantor, in the Guarantor's sole discretion, may deny a Guarantee, after consideration of the recommendation from the Credit Review Board and/or based on the merits of the Guarantee Application. If any Guarantee Application receives a summary rating of materially deficient during the CAMELS underwriting review, the application will not be recommended for approval. In addition, the Guarantor reserves the right to deny a Guarantee Application if information (including any administrative error) comes to the Guarantor's attention that adversely affects the Qualified Issuer's eligibility, adversely affects the evaluation or scoring of an Application,

or indicates fraud or mismanagement on the part of the Qualified Issuer, Program Administrator, Servicer, and/or Eligible CDFIs.

Further, if the Guarantor determines that any portion of the Guarantee Application is incorrect in any material respect, the Guarantor reserves the right, in the Guarantor's sole discretion, to deny the Application.

V. Guarantee Administration

A. Pricing information. Bond Loans will be priced based on the underlying Bond issued by the Qualified Issuer and purchased by the Federal Financing Bank (FFB or Bond Purchaser). As informed by CDFI Fund underwriting, according to the criteria laid out in Section II "General Application Information" and Section IV "Guarantee Applications" of this NOGA, the FFB will set the liquidity premium at the time of the Bond Issue Date, based on the duration and maturity of the Bonds according to the FFB's lending policies (www.treasury.gov/ffb). Liquidity premiums will be charged in increments of 1/8th of a percent (*i.e.*, 12.5 basis points).

B. Fees and other payments. The following table includes some of the fees that may be applicable to Qualified Issuers and Eligible CDFIs after approval of a Guarantee of a Bond Issue, as well as Risk-Share Pool funding, prepayment penalties or discounts, and Credit Enhancements. The table is not exhaustive; additional fees payable to the CDFI Fund or other parties may apply.

Fee	Description
Agency Administrative Fee	Payable monthly to the CDFI Fund by the Eligible CDFI Equal to 10 basis points (annualized) on the amount of the unpaid principal of the Bond Issue.
Bond Issuance Fees	Amounts paid by an Eligible CDFI for reasonable and appropriate expenses, administrative costs, and fees for services in connection with the issuance of the Bond (but not including the Agency Administrative Fee) and the making of the Bond Loan. Fees negotiated between the Qualified Issuer, the Master Servicer/Trustee, and the Eligible CDFI. Up of 1% of Bond Loan Proceeds may be used to finance Bond Issuance Fees.
Servicer Fee	The fees paid by the Eligible CDFI to the Qualified Issuer's Servicer. Servicer fees are negotiated between the Qualified Issuer and the Eligible CDFI.
Program Administrator Fee	The fees paid by the Eligible CDFI to the Qualified Issuer's Program Administrator. Program Administrator fees are negotiated between the Qualified Issuer and the Eligible CDFI.
Master Servicer/Trustee Fee	The fees paid by the Qualified Issuer and the Eligible CDFI to the Master Servicer/Trustee to carry out the responsibilities of the Bond Trust Indenture. In general, the Master Servicer/Trustee fee for a Bond Issue with a single Eligible CDFI is the greater of 16 basis points per annum or \$6,000 per month once the Bond Loans are fully disbursed. Fees for Bond Issues with more than one Eligible CDFI are negotiated between the Master Servicer/Trustee, Qualified Issuer, and Eligible CDFI. Any special servicing costs and resolution or liquidation fees due to a Bond Loan default are the responsibility of the Eligible CDFI. Please see the template legal documents at https://www.cdfifund.gov/programs-training/Programs/cdfi-bond/Pages/closing-disbursement-step.aspx#step4 for more specific information.
Risk-Share Pool Funding	The funds paid by the Eligible CDFIs to cover Risk-Share Pool requirements; capitalized by pro rata payments equal to 3% of the amount disbursed on the Bond Loan from all Eligible CDFIs within the Bond Issue.
Prepayment Premiums or Discounts	Prepayment premiums or discounts are determined by the FFB at the time of prepayment.

Fee	Description
Credit Enhancements	Pledges made to enhance the quality of a Bond and/or Bond Loan. Credit Enhancements include, but are not limited to, the Principal Loss Collateral Provision and letters of credit. Credit Enhancements must be pledged, as part of the Trust Estate, to the Master Servicer/Trustee for the benefit of the Federal Financing Bank.

C. Terms for Bond Issuance and Disbursement of Bond Proceeds. In accordance with 12 CFR 1808.302(f), each year, beginning on the one year anniversary of the Bond Issue Date (and every year thereafter for the term of the Bond Issue), each Qualified Issuer must demonstrate that no less than 100% of the principal amount of the Guaranteed Bonds currently disbursed and outstanding has been used to make loans to Eligible CDFIs for Eligible Purposes. If a Qualified Issuer fails to demonstrate this requirement within the 90 days after the anniversary of the Bond Issue Date, the Qualified Issuer must repay on that portion of Bonds necessary to bring the Bonds that remain outstanding after such repayment is in compliance with the 100% requirement above.

D. Secondary Loan Requirements. In accordance with the Regulations, Eligible CDFIs must finance or refinance Secondary Loans for Eligible Purposes (not including loan loss reserves) that comply with Secondary Loan Requirements. The Secondary Loan Requirements are found on the CDFI Fund's website at <https://www.cdfifund.gov/programs-training/programs/cdfi-bond/compliance-step>. Applicants should become familiar with the published Secondary Loan Requirements (both the General Requirements and the Underwriting Review Checklist). Secondary Loan Requirements are subject to a Secondary Loan commitment process managed by the Qualified Issuer. Eligible CDFIs must execute Secondary Loan documents (in the form of promissory notes) with Secondary Borrowers as follows: (i) no later than 12 months after the Bond Issue Date, Secondary Loan documents representing at least 50% of the Bond Loan proceeds allocated for Secondary Loans, and (ii) no later than 24 months after the Bond Issue Date, Secondary Loan documents representing 100% of the Bond Loan proceeds allocated for Secondary Loans. In the event that the Eligible CDFI does not comply with the foregoing requirements of clauses (i) or (ii) of this paragraph, the available Bond Loan proceeds at the end of the applicable period shall be reduced by an amount equal to the difference between the amount required by clauses (i) or (ii) for

the applicable period minus the amount previously committed to the Secondary Loans in the applicable period.

Secondary Loans shall carry loan maturities suitable to the loan purpose and be consistent with loan-to-value requirements set forth in the Secondary Loan Requirements. Secondary Loan maturities shall not exceed the corresponding Bond or Bond Loan maturity date. It is the expectation of the CDFI Fund that interest rates for the Secondary Loans will be reasonable based on the borrower and loan characteristics.

E. Secondary Loan Collateral Requirements.

1. The Regulations state that Secondary Loans must be secured by a first lien of the Eligible CDFI on pledged collateral, in accordance with the Regulations (at 12 CFR 1808.307(f)) and within certain parameters. Examples of acceptable forms of collateral may include, but are not limited to: real property (including land and structures), leasehold interests, machinery, equipment and movables, cash and cash equivalents, accounts receivable, letters of credit, inventory, fixtures, contracted revenue streams from non-Federal counterparties, provided the Secondary Borrower pledges all assets, rights and interests necessary to generate such revenue stream, and a Principal Loss Collateral Provision. Intangible assets, such as customer relationships and intellectual property rights, are not acceptable forms of collateral. Loans secured by real property that are still in a construction phase will only be permitted when backed by a letter of credit issued by a bank deemed acceptable by the CDFI Bond Guarantee Program, in a format deemed acceptable to the CDFI Bond Guarantee Program, that guarantees the full value of the pledged collateral until at minimum completion of the construction and stabilization phases.

2. The Regulations require that Bond Loans must be secured by a first lien on a collateral assignment of Secondary Loans, and further that the Secondary Loans must be secured by a first lien or parity lien on acceptable collateral.

3. Valuation of the collateral pledged by the Secondary Borrower must be based on the Eligible CDFI's credit policy guidelines and must conform to the standards set forth in the Uniform

Standards of Professional Appraisal Practice (USPAP) and the Secondary Loan Requirements.

4. Independent third-party appraisals are required for the following collateral: real estate, leasehold interests, fixtures, machinery and equipment, movables stock valued in excess of \$250,000, and contracted revenue stream from non-Federal creditworthy counterparties. Secondary Loan collateral shall be valued using the cost approach, net of depreciation and shall be required for the following: accounts receivable, machinery, equipment and movables, and fixtures.

F. Qualified Issuer approval of Bond Loans to Eligible CDFIs. The Qualified Issuer shall not approve any Bond Loans to an Eligible CDFI where the Qualified Issuer has actual knowledge, based upon reasonable inquiry, that within the past five (5) years the Eligible CDFI: (i) has been delinquent on any payment obligation (except upon a demonstration by the Qualified Issuer satisfactory to the CDFI Fund that the delinquency does not affect the Eligible CDFI's creditworthiness), or has defaulted and failed to cure any other obligation, on a loan or loan agreement previously made under the Act; (ii) has been found by the Qualified Issuer to be in default of any repayment obligation under any Federal program; (iii) is financially insolvent in either the legal or equitable sense; or (iv) is not able to demonstrate that it has the capacity to comply fully with the payment schedule established by the Qualified Issuer.

G. Credit Enhancements; Principal Loss Collateral Provision.

1. In order to achieve the statutory zero-credit subsidy constraint of the CDFI Bond Guarantee Program and to avoid a call on the Guarantee, Eligible CDFIs are encouraged to include Credit Enhancements and Principal Loss Collateral Provisions structured to protect the financial interests of the Federal Government. Any Credit Enhancement or Principal Loss Collateral Provision must be pledged, as part of the Trust Estate, to the Master Servicer/Trustee for the benefit of the Federal Financing Bank.

2. Credit Enhancements may include, but are not limited to, payment guarantees from third parties or Affiliate(s), non-Federal capital, lines or letters of credit, or other pledges of

financial resources that enhance the Eligible CDFI's ability to make timely interest and principal payments under the Bond Loan.

3. As distinct from Credit Enhancements, Principal Loss Collateral Provisions may be provided in lieu of pledged collateral and/or in addition to pledged collateral. A Principal Loss Collateral Provision shall be in the form of cash or cash equivalent guarantees from non-Federal capital in amounts necessary to secure the Eligible CDFI's obligations under the Bond Loan after exercising other remedies for default. For example, a Principal Loss Collateral Provision may include a deficiency guarantee whereby another entity assumes liability after other default remedies have been exercised, and covers the deficiency incurred by the creditor. The Principal Loss Collateral Provision shall, at a minimum, provide for the provision of cash or cash equivalents in an amount that is not less than the difference between the value of the collateral and the amount of the accelerated Bond Loan outstanding.

4. In all cases, acceptable Credit Enhancements or Principal Loss Collateral Provisions shall be proffered by creditworthy providers and shall provide information about the adequacy of the facility in protecting the financial interests of the Federal Government, either directly or indirectly through supporting the financial strength of the Bond Issue. The information provided must include the amount and quality of any Credit Enhancements, the financial strength of the provider of the Credit Enhancement, the terms, specific conditions such as renewal options, and any limiting conditions or revocability by the provider of the Credit Enhancement.

5. For Secondary Loans benefiting from a Principal Loss Collateral Provision (e.g., a deficiency guarantee), the entity providing the Principal Loss Collateral Provision must be underwritten based on the same criteria as if the Secondary Loan were being made directly to that entity with the exception that the guarantee need not be collateralized.

6. If the Principal Loss Collateral Provision is provided by a financial institution that is regulated by an Appropriate Federal Banking Agency or an Appropriate State Agency, the guaranteeing institution must demonstrate performance of financially sound business practices relative to the industry norm for providers of collateral enhancements as evidenced by reports of Appropriate Federal Banking Agencies, Appropriate State Agencies, and auditors, as appropriate.

7. In the event that the Eligible CDFI proposes to use other Federal funds to service Bond Loan debt or as a Credit Enhancement, the CDFI Fund may require, in its sole discretion, that the Eligible CDFI provide written assurance from such other Federal program, in a form that is acceptable to the CDFI Fund and that the CDFI Fund may rely upon, that said use is permissible.

H. Reporting Requirements.

1. Reports.

a. General. As required pursuant to the Regulations at 12 CFR 1808.619, and as set forth in the Bond Documents and the Bond Loan documents, the CDFI Fund will collect information from each Qualified Issuer which may include, but will not be limited to:

(i) quarterly and annual financial reports and data (including an OMB single audit per 2 CFR 200 Subpart F, as applicable) for the purpose of monitoring the financial health, ratios and covenants of Eligible CDFIs that include asset quality (nonperforming assets, loan loss reserves, and net charge-off ratios), liquidity (current ratio, working capital, and operating liquidity ratio), solvency (capital ratio, self-sufficiency, fixed charge, leverage, and debt service coverage ratios); (ii) annual reports as to the compliance of the Qualified Issuer and Eligible CDFIs with the Regulations and specific requirements of the Bond Documents and Bond Loan documents; (iii) Master Servicer/Trustee summary of program accounts and transactions for each Bond Issue; (iv) Secondary Loan Certifications describing Eligible CDFI lending, collateral valuation, and eligibility; (v) financial data on Secondary Loans to monitor underlying collateral, gauge overall risk exposure across asset classes, and assess loan performance, quality, and payment history; (vi) annual certifications of compliance with program requirements; (vii) material event disclosures including any reports of Eligible CDFI management and/or organizational changes; (viii) annual updates to the Capital Distribution Plan (as described below); (ix) supplements and/or clarifications to correct reporting errors (as applicable); (x) project level reports to understand overall program impact and the manner in which Bond Proceeds are deployed for Eligible Community or Economic Development Purposes; and (xi) such other information that the CDFI Fund and/or the Bond Purchaser may require, including but not limited to demographic information of the beneficiaries of the CDFI Bond Guarantee Program, to the extent permissible by law.

b. Additional reporting by Qualified Issuers. A Qualified Issuer receiving a Guarantee shall submit annual updates to the approved Capital Distribution Plan, including an updated Proposed Sources and Uses of Funds for each Eligible CDFI, noting any deviation from the original baseline with regards to both timing and allocation of funding among Secondary Loan asset classes. The Qualified Issuer shall also submit a narrative, no more than five (5) pages in length for each Eligible CDFI, describing the Eligible CDFI's capacity to manage its Bond Loan. The narrative shall address any Notification of Material Events and relevant information concerning the Eligible CDFI's management information systems, personnel, executive leadership or board members, as well as financial capacity. The narrative shall also describe how such changes affect the Eligible CDFI's ability to generate impacts in Low-Income or Underserved Rural Areas.

c. Change of Secondary Loan asset classes. Any Eligible CDFI seeking to expand the allowable Secondary Loan asset classes beyond what was approved by the CDFI Bond Guarantee Program's Credit Review Board or make other deviations that could potentially result in a modification, as that term is defined in OMB Circulars A-11 and A-129, must receive approval from the CDFI Fund before the Eligible CDFI can begin to enact the proposed changes. The CDFI Fund will consider whether the Eligible CDFI possesses or has acquired the appropriate systems, personnel, leadership, and financial capacity to implement the revised Capital Distribution Plan. The CDFI Fund will also consider whether these changes assist the Eligible CDFI in generating impacts in Low-Income or Underserved Rural Areas. Such changes will be reviewed by the CDFI Bond Guarantee Program and presented to the Credit Review Board for approval, and, if required, appropriate consultation will be made with OMB to ensure compliance with OMB Circulars A-11 and A-129, prior to notifying the Eligible CDFI if such changes are acceptable under the terms of the Bond Loan Agreement.

d. Reporting by Affiliates and Controlling CDFIs. In the case of an Eligible CDFI relying, for CDFI Certification purposes, on the financing entity activity of a Controlling CDFI, the CDFI Fund will require that the Affiliate and Controlling CDFI provide certain joint reports, including but not limited to those listed in subparagraph 1(a) above.

e. Detailed information on specific reporting requirements and the format, frequency, and methods by which this information will be transmitted to the CDFI Fund will be provided to Qualified Issuers, Program Administrators, Servicers, and Eligible CDFIs through the Bond Loan Agreement, correspondence, and webinar training sessions, and/or scheduled outreach sessions.

f. Reporting requirements will be enforced through the Agreement to Guarantee and the Bond Loan Agreement and will contain a valid OMB control number pursuant to the Paperwork Reduction Act, as applicable.

g. Each Qualified Issuer will be responsible for the timely and complete submission of the annual reporting documents, including such information that must be provided by other entities such as Eligible CDFIs, Secondary Borrowers or Credit Enhancement providers. If such other entities are required to provide annual report information or documentation, or other documentation that the CDFI Fund may require, the Qualified Issuer will be responsible for ensuring that the information is submitted timely and complete. Notwithstanding the foregoing, the CDFI Fund reserves the right to contact such entities and requires that additional information and documentation be provided directly to the CDFI Fund.

h. Annual Assessments. Each Qualified Issuer and Eligible CDFI will be required to have an independent third-party conduct an Annual Assessment of its Bond Loan portfolio.

The Annual Assessment is intended to support the CDFI Fund's annual monitoring of the Bond Loan portfolio and to collect financial health, internal control, investment impact measurement methodology information related to the Eligible CDFIs. This assessment is consistent with the program's requirements for Compliance Management and Monitoring (CMM) and Portfolio Management and Loan Monitoring (PMLM), and will be required pursuant to the Bond Documents and the Bond Loan documents. The assessment will also add to the Department of the Treasury's review and impact analysis on the use of Bond Loan proceeds in underserved communities and support the CDFI Fund in proactively managing portfolio risks and performance. The Annual Assessment criteria for Qualified Issuers and Eligible CDFIs is available on the CDFI Fund's website at <https://www.cdfifund.gov/programs-training/programs/cdfi-bond/compliance-step>.

i. The CDFI Fund reserves the right, in its sole discretion, to modify its reporting requirements if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after notice to Qualified Issuers. Additional information about reporting requirements pursuant to this NOGA, the Bond Documents and the Bond Loan documents will be subject to the Paperwork Reduction Act, as applicable.

2. Accounting.

a. In general, the CDFI Fund will require each Qualified Issuer and Eligible CDFI to account for and track

the use of Bond Proceeds and Bond Loan proceeds. This means that for every dollar of Bond Proceeds received from the Bond Purchaser, the Qualified Issuer is required to inform the CDFI Fund of its uses, including Bond Loan proceeds. This will require Qualified Issuers and Eligible CDFIs to establish separate administrative and accounting controls, subject to the applicable OMB Circulars.

b. The CDFI Fund will provide guidance to Qualified Issuers outlining the format and content of the information that is to be provided on an annual basis, outlining and describing how the Bond Proceeds and Bond Loan proceeds were used.

VI. Agency Contacts

A. General information on questions and CDFI Fund support. The CDFI Fund will respond to questions and provide support concerning this NOGA, the Qualified Issuer Application and the Guarantee Application between the hours of 9:00 a.m. and 5:00 p.m. ET, starting with the date of the publication of this NOGA. The final date to submit questions is July 2, 2026. Applications and other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's website at <http://www.cdfifund.gov>. The CDFI Fund will post on its website responses to questions of general applicability regarding the CDFI Bond Guarantee Program.

B. The CDFI Fund's contact information is as follows:

TABLE 2—CONTACT INFORMATION

Type of question	Telephone number (not toll free)	Email addresses
CDFI Bond Guarantee Program	(202) 653-0421, Option 5	bgp@cdfi.treas.gov .
CDFI Certification	(202) 653-0423	ocpecert@cdfi.treas.gov .
Compliance Monitoring and Evaluation	(202) 653-0423	ccme@cdfi.treas.gov .
Information Technology Support	(202) 653-0422	AMIS@cdfi.treas.gov .

C. Communication with the CDFI Fund. The CDFI Fund will communicate with applicants, Qualified Issuers, Program Administrators, Servicers, Certified CDFIs and Eligible CDFIs, using the contact information maintained in their respective AMIS accounts. Therefore, each such entity must maintain accurate contact information (including contact person and authorized representative, email addresses, fax numbers, phone numbers, and office addresses) in its respective AMIS account. For more information about AMIS, please see the AMIS

Landing Page at <https://amis.cdfifund.gov>.

VII. Information Sessions and Outreach

The CDFI Fund may conduct webcasts, webinars, or information sessions for organizations that are considering applying to, or are interested in learning about, the CDFI Bond Guarantee Program. The CDFI Fund provides targeted outreach to both Qualified Issuer and Eligible CDFI participants to clarify the roles and requirements under the CDFI Bond Guarantee Program. For further

information, or to sign up for alerts, please visit the CDFI Fund's website at <http://www.cdfifund.gov>.

Authority: Pub. L. 111-240; 12 U.S.C. 4701, *et seq.*; 12 CFR part 1808; 12 CFR part 1805; 12 CFR part 1815.

Dated: June 26, 2026.

Luke J. Pettit,

Assistant Secretary for Financial Institutions.

[FR Doc. 2026-13172 Filed 6-29-26; 8:45 am]

BILLING CODE 4810-05-P

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****Notice of OFAC Sanctions Action**

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more

applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on June 22, 2026. See Supplementary Information for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202-622-2420; Assistant Director for Licensing, 202-622-2480; Assistant Director for Sanctions Compliance, 202-622-2490 or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Action

On June 22, 2026, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

BILLING CODE 4810-AL-P

1. ABDELHAKIM, Boukich (a.k.a. "ALHOLANDI, Abu Sulayman"; a.k.a. "BABILI, Muhammad"), Syria; DOB 15 Dec 1993; alt. DOB 01 Jan 1991; POB The Hague, Netherlands; alt. POB Aleppo, Syria; nationality Netherlands; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 02040063438 (Syria) (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(a)(iii)(C) of Executive Order (E.O.) 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism," 66 FR 49079, 3 CFR, 2001 Comp., p. 786, as amended by Executive Order 13886 of September 9, 2019, "Modernizing Sanctions To Combat Terrorism," 84 FR 48041, 3 CFR, 2019 Comp., p. 356 (E.O. 13224, as amended), for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the Islamic State Of Iraq And The Levant (ISIS), a person whose property and interests in property are blocked pursuant to E.O. 13224.

2. ABDERRAHMANE, Miloud (a.k.a. "GHAZI, Ibrahim"), France; DOB Aug 1992; nationality France; citizen France; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Digital Currency Address - TRX TBXMiRqUp1XH1zLazWu8cWitMAScv4HsYq; alt. Digital Currency Address - TRX TDFj8tYzflDkwEMo4MJ2DfrbpMztuCCnan (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISIS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

3. MUHAMMAD, Mukhtar Adamu (a.k.a. ADAMU, Mukhtar; a.k.a. MUKHTAR, Muhammad), No. 45, Abimbola Street, off Capital Road, by Morcas Agege, Lagos State, Nigeria; DOB 02 Aug 1990; alt. DOB 03 Aug 1990; nationality Nigeria; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport A11904741 (Nigeria); alt. Passport A07422697 (Nigeria) (individual) [SDGT] (Linked To: ISIS-WEST AFRICA).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISIS-West Africa (ISIS-WA), a person whose property and interests in property are blocked pursuant to E.O. 13224.

Entities

1. ALKARAM DANISMANLIK GAYRIMENKUL IC VE DIS GENEL TICARET LIMITED SIRKETI (Latin: ALKARAM DANIŞMANLIK GAYRİMENKUL İÇ VE DIŞ TİCARET LİMİTED ŞİRKETİ) (a.k.a. ALKARAM CONSULTING REAL ESTATE DOMESTIC AND FOREIGN TRADE LIMITED COMPANY; a.k.a. SPIDER COMPANY ISTANBUL EXCHANGE RATES; a.k.a. "AL-KARAM COMPANY"; a.k.a. "AL-KARAM FINANCIAL TRANSFERS" (Arabic: "الكرم للحوالات المالية"); a.k.a. "AL-KARAM MONEY TRANSFER COMPANY"), Haseki Sultan Mh. Tur. Ozal Mil. CD. Manisa Is Mer. Bl. No. 49/13, Fatih, Turkey; Website : www.alkarammt.com/branch/index.php?p=l&f=i; alt. Website alankbot.com
Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 08 Feb 2022; Organization Type: Financial and Insurance Activities; Trade License No. 360569-5 (Turkey) Commercial Registry Number 1351314 (Turkey) [SDGT] (Linked To: ISLAMIC).STATE OF IRAQ AND THE LEVANT

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISIS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

2. BITCOIN EXCHANGE AGENT IDLIB'S NO.1 COIN EXCHANGE (a.k.a. IDLIB NO 1 BTC; a.k.a. NO.1 BITCOIN EXCHANGE AGENT; a.k.a. "BITCOIN XCHANGE"), Idlib, Syria; Salqin, Syria; Darkush, Syria; Sarmada, Syria; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 2020; Organization Type: Financial and Insurance Activities [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISIS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

3. SPIDER GAYRIMENKUL VE GENEL TICARET LIMITED SIRKETI (Latin: SPİDER GAYRIMENKUL VE GENEL TICARET LIMITED SIRKETI (Latin: SPİDER GAYRİMENKUL VE GENEL TİCARET LİMİTED ŞİRKETİ) (a.k.a. SPIDER GENERAL TRADING AND MONEY TRANSFER COMPANY; a.k.a. SPIDER MONEY TRANSFER COMPANY; a.k.a. SPIDER REAL ESTATE AND GENERAL TRADE LIMITED COMPANY; a.k.a. "SPIDER GENERAL TRADING COMPANY" (Arabic: "شركة سبايدر للتجارة العامة"); a.k.a. "SPIDER TICARET"), Iskenderpasa Mah, Ragipbey Sk, No:3/1, Fatih, Istanbul, Turkey; Website www.spidermt.com/branch/index.php?p=l&f=i; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 14 May 2018; Organization Type: Financial and Insurance Activities; Trade License No. 139309-5 (Turkey); Commercial Registry Number 0781073746200001 (Turkey); Chamber of Commerce Number 1129156 (Turkey) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISIS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

4. GENERATION CURRENCY BUREAU DE CHANGE LIMITED, Lagos, Nigeria; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 09 Jan 2019; Organization Type: Financial and Insurance Activities; Registration Number RC 1555604 (Nigeria) [SDGT] (Linked To: MUHAMMAD, Mukhtar Adamu).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Mukhtar Adamu Muhammad, a person whose property and interests in property are blocked pursuant to E.O. 13224.

5. MANHATTAN BUREAU DE CHANGE LIMITED, No. 59 Murtala Mohammad Way, Wapa, Kano, Nigeria; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 26 Jan 2021; Organization Type: Financial and Insurance Activities; Serial No. 617688217763824 (Nigeria); Tax ID No. 23832449-0001 (Nigeria); Registration Number RC 1763824 (Nigeria) [SDGT] (Linked To: MUHAMMAD, Mukhtar Adamu).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Mukhtar Adamu Muhammad, a person whose property and interests in property are blocked pursuant to E.O. 13224.

6. NINE TO NINE EXCHANGE BUREAU DE CHANGE LIMITED, Block 7, Faan Complex, Airport Road by Beesam Bus Stop, Ikeja, Lagos, Lagos State, Nigeria; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 22 Aug 2017; Organization Type: Financial and Insurance Activities; Registration Number RC 1462752 (Nigeria) [SDGT] (Linked To: MUHAMMAD, Mukhtar Adamu).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Mukhtar Adamu Muhammad, a person whose property and interests in property are blocked pursuant to E.O. 13224.

(Authority: E.O. 13224, as amended)

Ripley Quinby IV,
Associate Director, Office of Foreign Assets Control.

[FR Doc. 2026-13102 Filed 6-29-26; 8:45 am]

BILLING CODE 4810-AL-C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request on Tax- Exempt Organization Complaint (Referral)

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 28, 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. 1545-2314" in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Kerry Dennis, (202) 317-5751.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess the impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record, and viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Tax-Exempt Organization Complaint (Referral).

OMB Control Number: 1545-2314.

Form Numbers: 13909.

Abstract: This request covers the taxpayer burden with Form 13909, Tax-Exempt Organization Complaint (Referral). Form 13909 is used by individuals to submit a complaint about tax-exempt organizations. The information provided on this form will help the Internal Revenue Service (IRS) determine if there has been a violation of federal tax law.

Current Actions: There are no changes to the form that would affect burden.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions, and Federal, State, local or tribal governments.

Estimated Number of Responses: 8,000.

Estimated Time per Response: 46 minutes.

Estimated Total Annual Burden Hours: 6,400 hours.

Dated: June 25, 2026.

Kerry Dennis,

Tax Analyst.

[FR Doc. 2026-13097 Filed 6-29-26; 8:45 am]

BILLING CODE 4831-GV-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Internal Revenue Service Advisory Council; Public Meeting

AGENCY: Internal Revenue Service, Department of Treasury.

ACTION: Notice of public meeting.

SUMMARY: The Internal Revenue Service Advisory Council will hold a public meeting.

DATES: Wednesday, July 15, 2026.

ADDRESSES: The meeting will be held virtually via Microsoft Teams.

FOR FURTHER INFORMATION CONTACT:

Anna Millikan, Office of National Public Liaison, at 202-317-6564 or send an email to PublicLiaison@irs.gov.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, the Internal Revenue Services announced the Internal Revenue Service Advisory Council (IRSAC) will hold a public meeting on Wednesday, July 15, 2026, at 12:15 p.m. Eastern to discuss topics that may be recommended for inclusion in a future report of the Council.

The meeting will be held virtually via Microsoft Teams. Members of the public planning to attend should register by July 13 by contacting Anna Millikan at PublicLiaison@irs.gov or 202-317-6564. Attendees are encouraged to join at least five minutes before the meeting begins.

Agenda items to be discussed may include but are not limited to: enhancements to IRS operations; suggestions for administrative and policy changes to improve taxpayer experience and service, compliance and tax administration; information reporting issues; and matters concerning tax-exempt and government entities. The meeting agenda will be posted online prior to the meeting at the IRSAC web page, www.irs.gov/irsac.

Should you wish the IRSAC to consider a written statement germane to

the Council's work, file the statement by sending an email to PublicLiaison@irs.gov by July 13, 2026.

Dated: June 26, 2026.

John A. Lipold,

Designated Federal Official, Office of National Public Liaison, Internal Revenue Service.

[FR Doc. 2026-13168 Filed 6-29-26; 8:45 am]

BILLING CODE 4831-GV-P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Departmental Offices Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before July 30, 2026 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Copies of the submissions may be obtained from Spencer W. Clark by emailing PRA@treasury.gov, calling (202) 927-5331, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Departmental Offices (DO)

1. *Title:* Treasury International Capital (TIC) Forms BC, BL-1, BL-2, BQ-1, BQ-2, and BQ-3.

OMB Control Number: 1505-0016.

Type of Request: Revision of a currently approved collection.

Description: These Treasury International Capital (TIC) B forms are required by law and are designed to collect timely and readily available

information on cross-border claims and liabilities of U.S. banks, other financial institutions, and their domestic customers. These reports are required by E.O. Number 10033 of February 8, 1949 and implementing Treasury Regulations (31 CFR 128), the International Investment and Trade in Services Survey Act (22 U.S.C. 3103), and the Bretton Woods Agreements Act (Sec. 8(a) 59 Stat. 515; 22 U.S.C. 286f).

The TIC B forms comprise the following six forms:

(1) Form BC (monthly), "Report of U.S. Dollar Claims of Financial Institutions on Foreign Residents", is filed by banks, other depository institutions, bank holding companies, financial holding companies, securities brokers and dealers, and all other financial institutions in the United States to report their own portfolio claims (exclusive of long-term securities) on foreign residents.

(2) Form BL-1 (monthly), "Report of U.S. Dollar Liabilities of Financial Institutions to Foreign Residents", is filed by banks, other depository institutions, bank holding companies, financial holding companies, securities brokers and dealers, and all other financial institutions in the United States to report their own portfolio liabilities (exclusive of long-term securities) to foreign residents.

(3) Form BL-2 (monthly), "Report of Customers' U.S. Dollar Liabilities to Foreign Residents", is filed by banks, other depository institutions, bank holding companies, financial holding companies, securities brokers and dealers, and all other financial institutions in the United States to report the U.S. dollar liabilities (exclusive of long-term securities) of their domestic customers.

(4) Form BQ-1 (quarterly), "Report of Customers' U.S. Dollar Claims on Foreign Residents", is filed by banks, other depository institutions, bank holding companies, financial holding companies, securities brokers and dealers, and all other financial institutions in the United States to report their own and their domestic customers' portfolio claims (exclusive of long-term securities) on foreign residents.

(5) BQ-2 (quarterly), "Part 1—Report of Foreign Currency Liabilities and Claims of Financial Institutions and of their Domestic Customers' Foreign Currency Claims with Foreign Residents; Part 2—Report of Customers' Foreign Currency Liabilities to Foreign Residents", is filed by banks, other depository institutions, bank holding companies, financial holding companies, securities brokers and

dealers, and all other financial institutions in the United States to report their own liabilities and claims (exclusive of long-term securities), and liabilities and claims (exclusive of long-term securities) of their domestic customers, denominated in foreign currencies.

(6) Form BQ-3 (quarterly), "Report of Maturities of Selected Liabilities and Claims of Financial Institutions with Foreign Residents", is filed by banks, other depository institutions, bank holding companies, financial holding companies, brokers and dealers, and all other financial institutions in the United States to report the maturities of selected liabilities and claims with foreign residents denominated in U.S. dollars or in foreign currencies.

Form: Treasury International Capital (TIC) Forms BC, BL-1, BL-2, BQ-1, BQ-2, and BQ-3.

Affected Public: Financial institutions.

Estimated Number of Respondents: 910.

Frequency of Response: Quarterly, Monthly.

Estimated Total Number of Annual Responses: 7,952.

Estimated Time per Response: Varies per form. Average 9.92 hours across all forms.

Estimated Total Annual Burden Hours: 78,900.

2. *Title:* Emergency Capital Investment Program Reporting.

OMB Control Number: 1505-0275.

Type of Request: Revision of a currently approved collection.

Description: The Consolidated Appropriations Act, 2021, signed into law on December 27, 2020, added Section 104A of the Community Development Banking and Financial Institutions Act of 1994 (the "Act"). Section 104A authorizes the Secretary of the Treasury to establish the Emergency Capital Investment Program ("ECIP" or "Program") to support the efforts of low- and moderate-income community financial institutions to, among other things, provide loans, grants, and forbearance for small businesses, minority-owned businesses, and consumers, especially in low-income and underserved communities, including persistent poverty counties, that may have been disproportionately impacted by the economic effects of the COVID-19 pandemic by providing direct and indirect capital investments in low- and moderate-income community financial institutions.

As required by the Act, the interest and dividend rates payable on ECIP instruments are determined based on the increase in the amount of lending by

an institution within minority, rural, and urban low-income and underserved communities and to low- and moderate-income borrowers during the preceding annual period compared to a baseline set from the annual period ending on September 30, 2020. To establish this baseline level of qualified lending, Treasury collected an Initial Supplemental Report (ISR) from participating applicants. This baseline must be adjusted to reflect mergers and acquisitions, should those events occur. The Quarterly Supplemental Report (QSR) allows for the collection of data on the increase in qualified and deep impact lending from the baseline amount established through the ISR. Legal certifications support validation of the accuracy of information reported to Treasury.

Treasury requests continued approval of the following forms associated with collection of compliance, legal certifications, and performance information from financial institutions that are participating in the program and to consolidate such forms under a single collection number.

(1) Routine collection of the Initial Supplemental Report for use in the event of certain mergers and acquisitions or other circumstances, inclusive of separate versions for credit unions and bank and holding companies.

(2) Quarterly Supplemental Report, inclusive of separate versions for credit unions and banks and holding companies.

(3) Legal certifications required by legal agreements.

Form: Initial Supplemental Report, Quarterly Supplemental Report.

Affected Public: Financial Institutions.

Estimated Number of Respondents: 165.

Frequency of Response: Once, Quarterly, On occasion.

Estimated Total Number of Annual Responses: 495.

Estimated Time per Response: Varies from 10 minutes for Legal Certification to 120-160 hours for Quarterly and Initial Supplemental Reports.

Estimated Total Annual Burden Hours: 28,143.

3. *Title:* Local Assistance and Tribal Consistency Fund.

OMB Control Number: 1505-0276.

Type of Request: Extension without change of a currently approved collection.

Description: Section 605 of the Social Security Act, as added by section 9901 of the American Rescue Plan Act of 2021, established the Local Assistance and Tribal Consistency Fund

("LATCF"), which appropriated \$2 billion in total funding across fiscal years 2022 and 2023 to Treasury to make payments to eligible revenue sharing counties and eligible Tribal governments. Specifically, for each of fiscal years 2022 and 2023, Treasury reserved \$250 million of the total amount appropriated to allocate and pay to eligible Tribal governments and \$750 million of the total amount appropriated to allocate and pay to eligible revenue sharing counties. Additionally, Section 103 of Division LL of the Consolidated Appropriations Act, 2023 made additional funding available across fiscal years 2023 and 2024 for payments to eligible revenue sharing consolidated governments. Treasury determined the total allocation for eligible revenue sharing consolidated governments to be approximately \$10.5 million, approximately \$5.3 million reserved for each of fiscal years 2023 and 2024. Under this program, recipients have broad discretion on uses of funds, similar to the ways in which they may use funds generated from their own revenue sources.

Form: Annual Obligation and Expenditure Report.

Affected Public: State, Local and Tribal Governments.

Estimated Number of Respondents: 1,400.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 1,400.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 1,400.

4. *Title:* Application, Reports and Recordkeeping for the Social Impact Partnerships to Pay for Results Act (SIPRA) Grants Program.

OMB Control Number: 1505-0260.

Type of Request: Revision of a currently approved collection.

Description: SIPRA, enacted February 9, 2018, amends Title XX of the Social Security Act, 42 U.S.C. 1397 *et seq.*, to provide \$100 million in funding to implement social impact partnership projects (projects) and feasibility studies for such projects. SIPRA authorizes the Secretary of the Treasury to enter into award agreements with state or local governments for projects or feasibility studies. Treasury, in consultation with other federal agencies, administers the SIPRA program. SIPRA authorizes Treasury to conduct a request for proposals for projects, make award determinations, and enter into project award agreements.

Although Treasury asked applicants to use the SF-424 and SF-425 families of common forms for their applications

and reports, Treasury also solicited additional detailed information from applicants to effectively and efficiently assess and evaluate whether applications for projects comply with statutory requirements. This request includes only the burden for this additional information. The burden for the SF-424 forms is covered under OMB Control Numbers 4040-0004, 4040-0006, 4040-0007, 4040-0008, 4040-0009, 4040-0010, and 4040-0013. The burden for the SF-425 form is covered under OMB Control Number 4040-0014. The additional information includes the following components:

- *SAM.gov* registration;
- Project Narrative, to include an Executive Summary;
- Project Narrative Attachments, to include project budget, narrative statement addressing partnership agreements, an estimate of the value to the federal government of the interventions being proposed in the project, partner qualifications, independent evaluator qualifications, evaluation design plan, independent evaluator contract, outcome valuation, legal compliance, and (optional) additional supporting documentation such as a preexisting feasibility study;
- Treasury Office of Civil Rights and Equal Employment Opportunity Assurances and Certifications, Terms and Conditions, and Compliance Data;
- Additional documentation related to Title VI of the Civil Rights Act;
- Copy of application proposing privileged or confidential information to be redacted;
- Administrative Reporting, including an Annual Performance Report, Evaluation Progress Reports, and Final Evaluation Report; and
- Records Retention requirements.

Treasury has released two Notice of Funding Opportunities (NOFOs) since 2018. The first in January 2019 and the second in November 2023. Treasury is now planning to release a third round of funding in FY26. The potential FY26 NOFO is available in full for the public's review.

Affected Public: State, Local and Tribal Governments.

Estimated Number of Respondents: 35.

Frequency of Response: Once, Quarterly, On occasion.

Estimated Total Number of Annual Responses: 55.

Estimated Time per Response: Quarterly Performance Report—8 hours, Evaluation Progress Report—20 hours, Application—300 hours.

Estimated Total Annual Burden Hours: 7,860.

Authority: 44 U.S.C. 3501 *et seq.*

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2026-13201 Filed 6-29-26; 8:45 am]

BILLING CODE 4810-AK-P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Internal Revenue Service Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before July 30, 2026 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Copies of the submissions may be obtained from Spencer W. Clark by emailing PRA@treasury.gov, calling (202) 927-5331, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

1. *Title:* Original Issue Discount.

OMB Control Number: 1545-0117.

Type of Request: Extension of a currently approved collection.

Description: Form 1099-OID is used for reporting original issue discount as required by section 6049 of the Internal Revenue Code. It is used to verify that income earned on discount obligations is properly reported by the recipient.

Affected Public: Business or other for-profit.

Estimated Number of Responses: 5,832,633.

Estimated Time per Response: 23 minutes.

Estimated Total Annual Burden Hours: 2,274,727.

2. *Title:* Qualified Disclaimers of Property.

OMB Control Number: 1545–0959.

Type of Request: Extension of a currently approved collection.

Description: Internal Revenue Code section 2518 allows a person to disclaim an interest in property received by gift or inheritance. The interest is treated as if the disclaimant never received or transferred such interest for Federal gift tax purposes. A qualified disclaimer must be in writing and delivered to the transferor or trustee.

Affected Public: Individuals or Households.

Estimated Number of Responses: 2,000.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 1,000.

3. *Title:* Buildings qualifying for carryover allocations.

OMB Control Number: 1545–0990.

Type of Request: Extension of a currently approved collection.

Description: State housing credit agencies (Agencies) are required by Internal Revenue Code section 42(l)(3) to report annually the amount of low-income housing credits that they allocated to qualified buildings during the year. Agencies report the amount allocated to the building owners and to the IRS in Part I of Form 8609. Carryover allocations are reported to the Agencies in carryover allocation documents. The Agencies report the carryover allocations to the IRS on Schedule A (Form 8610). Form 8610 is a transmittal and reconciliation document for Forms 8609, Schedule A (Form 8610), binding agreements, and election statements.

Affected Public: State, local, or tribal governments.

Estimated Number of Responses: 1,353.

Estimated Time per Response: 4 hours, 58 minutes.

Estimated Total Annual Burden Hours: 6,738.

4. *Title:* Information Return for Real Estate Mortgage Investment Conduits (REMICs) and Issuers of Collateralized Debt Obligations.

OMB Control Number: 1545–1099.

Type of Request: Extension of a currently approved collection.

Description: Current regulations require real estate mortgage investment conduits (REMICs) to provide Forms 1099 to true holders of interests in these investment vehicles. Because of the complex computations required at each level and the potential number of

nominees, the ultimate investor may not receive a Form 1099 and other information necessary to prepare their tax return in a timely fashion. Form 8811 collects information for publishing by the IRS so that brokers can contact REMICs to request the financial information and timely issue Forms 1099 to holders.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Responses: 3,000.

Estimated Time per Response: 4 hours, 23 minutes.

Estimated Total Annual Burden Hours: 13,140.

5. *Title:* Revenue Procedure 97–22.

OMB Control Number: 1545–1533.

Type of Request: Extension of a currently approved collection.

Description: Revenue Procedure 97–22 provides guidance to taxpayers that maintain books and records by using an electronic storage system. The collection requirements within Section 4 of the Revenue Procedure 97–22 are required to ensure that records maintained in an electronic storage system will constitute records within the meaning of section 6001. Section 4 explains the system requirements for electronic storage; and requires taxpayers to maintain records about the system description, use, security, and controls for review upon request.

Affected Public: Individuals or Households; Businesses or other for-profit organizations; not-for-profit institutions; farms; state, local or tribal governments.

Estimated Number of Responses: 50,200.

Estimated Time per Response: 20 hours, 1 minute.

Estimated Total Annual Burden Hours: 1,000,400.

6. *Title:* Employer-Designed Tip Reporting Program (EmTRAC) for the Food and Beverage Industry.

OMB Control Number: 1545–1716.

Type of Request: Extension of a currently approved collection.

Description: Information is required by the Internal Revenue Service in its compliance efforts to assist employers in the food and beverage industry that have employees who receive both cash and charged tips; in understanding and complying with Internal Revenue Code section 6053(a), which requires employees to report all their tips monthly to their employers.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Responses: 20.

Estimated Time per Response: 44 hours.

Estimated Total Annual Burden Hours: 870.

7. *Title:* Special Rules for Long-Term Contracts Under Section 460.

OMB Control Number: 1545–1732.

Type of Request: Extension of a currently approved collection.

Description: IRC section 460 generally provides rules that requires taxpayers to determine taxable income from a long-term contract using the percentage-of-completion (PCM) method and pay, or be entitled to receive, interest computed using the look-back method.

TD 8775 added Treasury Regulations section 1.460–6(j), providing taxpayers with the requirements to make an election not to apply the look-back method to long-term contracts in de minimis cases.

TD 8929 added Treasury Regulations section 1.460–1(e)(4), requiring taxpayers to attach a statement with specific information to their income tax return if they sever an agreement or aggregate two or more agreements during the taxable year.

TD 8995, as amended by TD 9137, added Treasury Regulations section 1.460–6(g)(3)(ii)(D) providing rules concerning a mid-contract change in taxpayer of a contract accounted for under a long-term contract method of accounting. The regulation requires the previous taxpayer to provide specific information to the new taxpayer to help the new taxpayer apply the look-back method when the income from a long-term contract has been previously reported by another taxpayer.

Affected Public: Individuals or Households; Businesses or other for-profit organizations.

Estimated Number of Responses: 75,000.

Estimated Time per Response: 21 minutes.

Estimated Total Annual Burden Hours: 26,500.

8. *Title:* Consent to Disclose Tax Compliance Check.

OMB Control Number: 1545–1856.

Type of Request: Extension of a currently approved collection.

Description: Form 14767 is used to authorize the Internal Revenue Service (IRS) to prepare a tax compliance report that discloses confidential tax information to a third-party appointee for Federal employment.

Affected Public: Individuals or Households.

Estimated Number of Responses: 46,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 7,664.

9. *Title:* Affordable Care Act Internal Claims and Appeals and External review Disclosures.

OMB Control Number: 1545–2182.

Type of Request: Extension of a currently approved collection.

Description: This collection of information request includes the information collection and third-party notice and disclosure requirements that a plan must satisfy under final regulations implementing provisions of the Affordable Care Act pertaining to internal claims and appeals, and the external review process. The No Surprise Act extends the balance billing protections related to external reviews to grandfathered plans. The definitions of group health plan and health insurance issuer that are cited in section 110 of the No Surprises Act include both grandfathered and non-grandfathered plans and coverage. Accordingly, the practical effect of section 110 of the No Surprises Act is that grandfathered health plans must provide external review for adverse benefit determinations involving benefits subject to these surprise billing protections. Grandfathered and non-grandfathered plans must provide claimants, free of charge, any new or additional evidence considered, relied upon, or generated by the plan or issuer in connection with the claim, and the requirement to comply either with a State external review process or a Federal review process. The disclosure requirements of the Federal external review process require (1) a preliminary review by plans of requests for external appeals; (2) Independent Review Organizations (IROs) to notify claimants of eligibility and acceptance for external review; (3) the plan or issuer to provide IROs with documentation and other information considered in making adverse benefit determination; (4) the IRO to forward to the plan or issuer any information submitted by the claimant; (5) plans to notify the claimant and IRO if it reverses its decision; (6) the IRO to notify the claimant and plan of the result of the final external appeal; (7) the IRO to maintain records for six years.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,294,150.

Total Estimated Number of Responses: 187,601.

Estimated Total Annual Burden Hours: 18,370.

10. Title: Bond Tax Credit.

OMB Control Number: 1545–2197.

Type of Request: Extension of a currently approved collection.

Description: Issuers of certain tax credit bonds (or their agents) and recipients of Form 1097–BTC from the bond issuer or agent, such as mutual

funds or partnerships, who are further distributing the credit must file Form 1097–BTC for each tax credit distributed from the following tax credit bonds: New clean renewable energy bonds, Qualified energy conservation bonds, Qualified zone academy bonds, Qualified school construction bonds, Clean renewable energy bonds, and Build America bonds (Tax Credit).

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Responses: 967.

Estimated Time per Response: 19 minutes.

Estimated Total Annual Burden Hours: 306.

11. Title: Trump Account Elections.

OMB Control Number: 1545–2336.

Type of Request: Extension of a currently approved collection.

Description: Section 70204 of the One Big Beautiful Bill, Public Law 119–21 established “Trump Accounts,” a new type of tax-advantaged savings account for children. These accounts are for children under 18. Form 4547 and Form 8879–TA will be used to make the elections to establish the accounts.

Affected Public: Individuals or Households.

Estimated Number of Responses: 85,000,000.

Estimated Time per Response: 1 hour, 28 minutes.

Estimated Total Annual Burden Hours: 64,850,000.

12. Title: Form 8609, Low-Income Housing Credit Allocation Certification; Form 8609–A, Annual Statement for Low-Income Housing Credit.

OMB Control Number: 1545–0988.

Type of Request: Extension of a currently approved collection.

Description: Owners of residential low-income rental buildings are allowed a low-income housing credit for each qualified building over a 10-year credit period. Form 8609 can be used to obtain a housing credit allocation from the housing credit agency. A separate Form 8609 must be issued for each building in a multiple building project. Form 8609 is also used to certify certain information. Form 8609–A is filed by a building owner to report compliance with the low-income housing provisions and calculate the low-income housing credit. Form 8609–A must be filed by the building owner for each year of the 15-year compliance period. File one Form 8609–A for the allocation(s) for the acquisition of an existing building and a separate Form 8609–A for the allocation(s) for rehabilitation expenditures. Treasury Decision 10036 contains final regulations setting forth recordkeeping and reporting requirements for the average income test

under section 42(g)(1)(C) of the Internal Revenue Code.

Affected Public: Businesses or other for-profit organizations; not-for-profit institutions; and farms.

Estimated Number of Responses: 33,000.

Estimated Time per Response: 12 hours, 58 minutes.

Estimated Total Annual Burden Hours: 428,265.

13. Title: Long-Term Care Premiums Paid Statement.

OMB Control Number: 1545–NEW.

Type of Request: New collection.

Description: Internal Revenue Code (IRC) section 401(a)(39)(E) respectively defines a long-term care premium statement and its requirements. IRC section 6050Z defines requirements of reporting, statements to be furnished, contracts or coverage covering more than one insured, and statements to be furnished on request. Issuers of certified long-term care insurance that files a long-term care premium statement use Form 1099–LPS to report long-term care insurance contracts.

Affected Public: Individuals or Households; Businesses or other for-profit organizations.

Estimated Number of Responses: 7,500.

Estimated Time per Response: 12 minutes.

Estimated Total Annual Burden Hours: 1,500.

Authority: 44 U.S.C. 3501 *et seq.*

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2026–13188 Filed 6–29–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Offering of U.S. Mortgage Guaranty Insurance Company Tax and Loss Bonds

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on this request.

DATES: Comments should be received on or before July 30, 2026 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Copies of the submissions may be obtained from Spencer W. Clark by emailing PRA@treasury.gov, calling (202) 927-5331, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Bureau of the Fiscal Service (BFS)

1. *Title:* Offering of U.S. Mortgage Guaranty Insurance Company Tax and Loss Bonds.

OMB Control Number: 1530-0051.

Type of Request: Extension of a currently approved collection.

Description: Chapter 31 of Title 31 of the United States Code authorizes the Secretary of the Treasury to prescribe the terms and conditions, including the form, of United States Treasury bonds, notes and bills. The information collected is essential to establish and maintain Tax and Loss Bond accounts (31 CFR part 343). This regulation governs issues, reissues and redemptions of Tax and Loss bonds. The information requested will be used to issue a Statement of Account to the entity, establish issue and maturity dates for the bonds, and provide electronic payment routing instructions for the proceeds.

Forms: None.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 74.

Frequency of Response: On occasion.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 19 hours.

Authority: 44 U.S.C. 3501 *et seq.*

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2026-13187 Filed 6-29-26; 8:45 am]

BILLING CODE 4810-AS-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0567]

Agency Information Collection Activity Under OMB Review: Presidential Memorial Certificate (PMC)

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the National Cemetery 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 30, 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. 2900-0567.”

FOR FURTHER INFORMATION CONTACT: VA PRA information: Dorothy Glasgow, 202-461-1084, VAPRA@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Presidential Memorial Certificate (PMC).

OMB Control Number: 2900-0567
<https://www.reginfo.gov/public/do/PRAsearch>.

Type of Review: Revision of a currently approved collection.

Abstract: The Presidential Memorial Certificate (PMC) is an engraved paper certificate, signed by a current U.S. President, to honor the memory of deceased Veterans who are eligible for burial in a national cemetery. VA Form 40-0247 information collection is required to properly inscribe and address for delivery of the PMC. Supporting military or discharge documents are also needed to verify that the veteran’s character of service and duty status meet program eligibility and legal requirements.

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 16812, April 02, 2026. This is a revision due to VA Form 40-0247 changing to split block 2 into 2a Veteran SSN and 2b Service Number or VA File Number.

Affected Public: Individuals or households.

Estimated Annual Burden: 6,250 hours.

Estimated Average Burden per Respondent: 3 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 125,000.

Authority: 44 U.S.C. 3501 *et seq.*

Lanea Haynes,

Alternate, VA PRA Clearance Officer, Office of Information Technology, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2026-13143 Filed 6-29-26; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0652]

Agency Information Collection Activity: Request for Nursing Home Information in Connection With Claim for Aid and Attendance

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 31, 2026.

ADDRESSES: Comments must be submitted through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Program-Specific information: Kendra McCleave, 202-461-9568, 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: Request for Nursing Home Information in Connection with Claim for Aid and Attendance (VA Form 21-0779).

OMB Control Number: 2900-0652.
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 21-0779 is used to gather the necessary information to determine eligibility for pension and aid and attendance benefits based on nursing home status. It also requests information regarding Medicaid status and nursing home care charges, so VA can determine the proper rate of payment. Without this information,

determination of entitlement would not be possible. The respondent burden decreased since the previous approval due to the decline of the estimated number of receivables averaged over the past year.

Affected Public: Private Sector.

Estimated Annual Burden: 2,141 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: example: One time.

Estimated Number of Respondents: 12,847 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. 2026-13158 Filed 6-29-26; 8:45 am]

BILLING CODE 8320-01-P



FEDERAL REGISTER

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Part II

Federal Deposit Insurance Corporation

12 CFR Parts 303, 306, 309, et al.

Disclosure of Information; Proposed Rule

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303, 306, 309, 327 and 337

RIN 3064–AG30

Disclosure of Information

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is inviting comment on a notice of proposed rulemaking that would update, clarify, and supplement the FDIC's regulations regarding the disclosure of confidential information by the FDIC and other parties, including by enhancing the ability of insured depository institutions to share confidential supervisory information with affiliates and certain other entities for appropriate business purposes, without seeking prior authorization from the FDIC. The proposal also would significantly simplify and clarify the requirements and restrictions applicable to the FDIC's discretionary disclosure of confidential information. Finally, the proposal would update and simplify the FDIC's rules regarding disclosures required under the Freedom of Information Act and would clarify how and when FDIC information may be disclosed in connection with legal proceedings and as a result of service of process made upon the FDIC and its directors, officers, and employees.

DATES: Comments must be received by the FDIC no later than August 31, 2026.

ADDRESSES: Comments should be directed to the FDIC, identified by RIN 3064–AG30, by any of the following methods:

- *Agency Website:* <https://www.fdic.gov/resources/regulations/federal-register-publications/>. Follow instructions for submitting comments on the FDIC website.
 - *Mail:* Jennifer M. Jones, Deputy Executive Secretary, Attention: Comments—RIN 3064–AG30, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
 - *Hand Delivered/Courier:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street NW) on business days between 7 a.m. and 5 p.m.
 - *Email:* comments@FDIC.gov.
- Include RIN 3064–AG30 on the subject line of the message.
- *Public Inspection:* Comments received, including any personal

information provided, may be posted without change to <https://www.fdic.gov/resources/regulations/federalregisterpublications/>. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of this notice will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

This proposal, all comments received, and a summary of not more than 100 words of the proposed rule pursuant to the Providing Accountability Through Transparency Act of 2023, 5 U.S.C. 553(b)(4), are available at <https://www.fdic.gov/federal-register-publications>.

FOR FURTHER INFORMATION CONTACT:

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I. Background and Policy Objectives

The FDIC's regulations set forth procedures, requirements, and restrictions for the disclosure of information by the FDIC and by other parties, including insured depository institutions, that may be in possession of the FDIC's confidential information. These include rules related to disclosure by the FDIC of information under the Freedom of Information Act (FOIA), disclosure by the FDIC and other parties of information that is confidential and exempt from disclosure under FOIA, and information related to legal proceedings (collectively, the information disclosure regulations). The FDIC has not significantly revised the information disclosure regulations in approximately 30 years. As a result, the FDIC's current information disclosure regulations (1) do not reflect or appropriately accommodate the business relationships and transactions that often give rise to a need by insured depository institutions to disclose the information subject to these provisions; (2) include administrative impediments to disclosing information that are

unnecessarily burdensome and may produce inconsistent results; (3) use terms that are outdated or vague; and (4) impose additional restrictions on the disclosure of confidential information by insured depository institutions that are not imposed under information disclosure regulations of the other federal banking agencies.

The proposal seeks to address these and other issues, including by providing flexibility to FDIC-supervised institutions to disclose information they commonly seek to share with certain third parties without prior approval of the FDIC and significantly reorganizing the FDIC's information disclosure regulations.

The FDIC invites comments on all aspects of the proposal, including ways the information disclosure regulations could be revised to further improve their clarity and reduce administrative burden.

II. Proposed Amendments to 12 CFR Part 309

A. Organization, Scope, and Purpose

Part 309 of the FDIC's regulations sets forth the FDIC's policies regarding the

information it maintains and the procedures for obtaining access to such information. Part 309 addresses, among other information disclosures, both requests from the public for FDIC information subject to FOIA and requests from insured depository institutions and other parties to disclose FDIC confidential information to third parties or to receive such information from the FDIC. As noted in section I of this Supplemental Information, part 309 has not been significantly amended in approximately 30 years. In that time, through its processing of requests for information under FOIA and its interactions with insured depository institutions and other parties seeking to disclose or receive FDIC confidential information, the FDIC has observed that part 309, both in its structure and content, has led to confusion among stakeholders and does not appropriately balance the need to protect sensitive, confidential information with the benefits of allowing greater transparency and access to information in appropriate circumstances.

To address these concerns and improve the FDIC's information

disclosure regulations, the proposal would reorganize part 309 into the following four subparts: (1) subpart A describes general aspects of the regulation, including the rule's scope and organization; (2) subpart B sets forth the FDIC's FOIA policies and procedures; (3) subpart C establishes the FDIC's policies and procedures regarding discretionary disclosures of confidential information exempt from FOIA, including circumstances when an insured depository institution may disclose FDIC confidential information in its possession without the FDIC's prior approval; and (4) subpart D describes the FDIC's policies and procedures regarding disclosure of confidential information in connection with legal proceedings. As discussed later in this Supplemental Information, the FDIC's service of process regulations that currently appear in part 309 would be relocated to proposed part 306.

The following table summarizes the proposal's changes to the content and organization of the FDIC's information disclosure regulations.

Current rule	Proposed rule
General Provisions 12 CFR 309.1–12 CFR 309.2	Subpart A 12 CFR 309.1
12 CFR 309.1—Purpose and scope	12 CFR 309.1—Purpose and scope.
12 CFR 309.2—Definitions	12 CFR 309.11 (Subpart B)
	12 CFR 309.31 (Subpart C).
	12 CFR 309.51 (Subpart D).
	12 CFR 306.2.
FOIA Provisions 12 CFR 309.3 to 12 CFR 309.5	Subpart B—FOIA 12 CFR 309.10–12 CFR 309.24
X	12 CFR 309.10—Scope.
12 CFR 309.3— Federal Register publication	X.
12 CFR 309.4—Publicly available records	12 CFR 309.12—FDIC information that may be made available on request. (See below).
12 CFR 309.5—Procedures for requesting records	12 CFR 309.11—Definitions.
12 CFR 309.5(a)—Definitions	12 CFR 309.13—Making a request for records.
12 CFR 309.5(b)—Making a request for records	
12 CFR 309.5(c)—Defective requests	12 CFR 309.14—Processing requests—in general.
12 CFR 309.5(d)—Processing requests	12 CFR 309.15—Processing requests—expedited processing.
12 CFR 309.5(e)—Providing responsive records	X.
12 CFR 309.5(f)—Fees	12 CFR 309.17—Fees in general.
	12 CFR 309.18—Types of fees.
	12 CFR 309.19—Charging fees.
	12 CFR 309.20—Payment of fees.
	12 CFR 309.21—Waiver or reduction of fees.
12 CFR 309.5(g)—Exempt information	X.
12 CFR 309.5(h)—Dispute resolution	12 CFR 309.22—Dispute resolution.
12 CFR 309.5(i)—Appeals	12 CFR 309.23—Administrative appeals.
12 CFR 309.5(j)—Records of another agency	12 CFR 309.16—Consultations and referrals.
X	12 CFR 309.24—Supplemental procedures for confidential commercial information.

Current rule	Proposed rule
Disclosure of Exempt Records 12 CFR 309.6	Subpart C—Discretionary Disclosure of Confidential Information 12 CFR 309.30–12 CFR 309.39
X	12 CFR 309.30—Purpose and scope.
X	12 CFR 309.31—Definitions.
12 CFR 309.6(a)—Disclosure prohibited	12 CFR 309.32—Disclosure prohibited.
12 CFR 309.6(b)—Disclosure authorized	12 CFR 309.33—Disclosure authorized; limitations.
	12 CFR 309.34—Procedure for requesting discretionary disclosure.
	12 CFR 309.35—Standard for discretionary disclosure.
	12 CFR 309.36—Disclosure by the FDIC.
12 CFR 309.6(b)(1) through (b)(6)—(Disclosures by the FDIC to enu- merated parties).	12 CFR 309.37—Disclosure by insured depository institutions and cer- tain other entities.
12 CFR 309.6(b)(7)—Authorization for disclosure by depository institu- tions or other third parties.	12 CFR 309.37(a)—Disclosure by insured depository institutions.
X	12 CFR 309.37(b)—Disclosure by insured depository institutions of confidential information created over twenty-five years ago.
X	12 CFR 309.37(c)—Disclosure by parent holding companies.
	12 CFR 309.37(d)—Disclosure by insured depository institutions and parent holding companies to other persons.
12 CFR 309.6(b)(7)(i)	12 CFR 309.37(e)—Disclosure by service providers to insured deposi- tory institution partners.
X	12 CFR 309.38—Disclosure by other persons.
12 CFR 309.6(b)(7)(ii)—Disclosure by third parties	X.
12 CFR 309.6(b)(7)(iii)	X.
12 CFR 309.6(b)(7)(iv)	(See Subpart D below).
12 CFR 309.6(b)(8)—Disclosure by General Counsel	12 CFR 309.36(i)—Authorization for disclosure by the FDIC chair- person
12 CFR 309.6(b)(9)—Authorization for disclosure by the Chairman of the Corporation's Board of Directors.	12 CFR 309.39—Conditions and limitations.
12 CFR 309.6(b)(10)—Limitations on disclosure	
Disclosure by General Counsel 12 CFR 309.6(b)(8)	Subpart D 12 CFR 309.50–12 CFR 309.55
X	12 CFR 309.50—Scope.
X	12 CFR 309.51—Definitions.
12 CFR 309.6(b)(8)(i)	12 CFR 309.52—Use of FDIC information in a non-party legal pro- ceeding.
	12 CFR 309.53—Submitting a request.
	12 CFR 309.54—Decision on requests.
12 CFR 309.6(b)(8)(ii)	12 CFR 309.55—Waiver and exemption of requirement for requests.
Service of Process 12 CFR 309.7	12 CFR Part 306 12 CFR 306.1–12 CFR 306.3
X	12 CFR 306.1—Scope.
X	12 CFR 306.2—Definitions.
12 CFR 309.7(a)—Service	12 CFR 306.3—Service of process.
12 CFR 309.7(b)—Notification by person served	X.
12 CFR 309.7(c)—Appearance by person served	X.

In addition, the proposal would make a number of revisions to part 309 that are generally intended to provide greater clarity, simplify administrative processes, and, where appropriate, remove or narrow restrictions on the ability of insured depository institutions to disclose FDIC confidential information to certain third parties. Importantly, while insured depository institutions are typically required to obtain prior approval from the FDIC before disclosing FDIC confidential information under the FDIC's current information disclosure regulations, the proposal would permit insured depository institutions to disclose such information to certain third parties without prior approval for a business

purpose, subject to having in place a qualifying confidentiality agreement with each intended recipient. These third parties include, for example, an insured depository institution's legal counsel, majority shareholder, qualifying service providers, and certain potential merger counterparties. In addition, where prior approval from the FDIC would still be required, the proposal would clarify and simplify the standard under which the FDIC may authorize an insured depository institution or other party to disclose FDIC confidential information.

As described in section III of this Supplemental Information, the proposal also would remove the provisions currently in part 309 regarding service

of process in a legal proceeding and relocate them to a separate part of the FDIC's regulations, proposed part 306. The FDIC has observed that the service of process provisions bear little relation to the other provisions of part 309 regarding information maintained by the FDIC and the policies and procedures for the disclosure of such information. Relocation of these service of process requirements to a separate part of the FDIC's regulations would improve the clarity of both the service of process requirements and the information disclosure requirements more generally.

Question 1: Does the proposed reorganization of part 309 achieve its intended objectives? If not, how can the structure and organization of part 309

be further improved to enhance the FDIC's disclosure of information regulations? Are there additional structural and organizational changes to the proposal that would help reduce burden?

B. Disclosure of Information Under the Freedom of Information Act

1. Overview

Under the proposal, requirements for parties requesting information from the FDIC under FOIA and the FDIC's processes for reviewing and responding to such requests would be codified at a new subpart B of part 309. Based on the FDIC's experience in processing FOIA requests, the FDIC believes its current requirements for FOIA requests, which are codified at sections 309.3 through 309.5 of part 309, could be clarified to better explain the FDIC's existing processes and improve readability. The proposed rule would also amend certain aspects of the FDIC's FOIA requirements to align them more closely with the applicable statutory requirements.

2. Definitions

Proposed section 309.11 would introduce certain new defined terms that the FDIC believes will help clarify the FDIC's FOIA requirements and better align the terminology used in the regulation with applicable statutory definitions.

Confidential commercial information would mean trade secrets and commercial or financial information obtained by the FDIC from a submitter that may contain material exempt from disclosure under Exemption 4 of FOIA.

Defective request would mean a request that does not reasonably describe the information requested or that does not otherwise comply with the requirements of subpart B of part 309, including those related to fees.

FOIA public liaison would mean the FDIC official responsible for assisting requesters by explaining the FOIA process, providing information on the status of requests, and resolving any disputes.

Submitter would mean any person or entity that provides confidential commercial information to the FDIC. The term "submitter" includes, but is not limited to, corporations, state governments, and foreign governments.

Other terms defined in proposed section 309.11 would have the meaning currently given to them in section 309.5(a) or would include minor modifications to better align with applicable statutory definitions.

Question 2: Do the new defined terms help clarify the FDIC's requirements for

FOIA requests? Should the definitions set forth in subpart B be further clarified or revised? If so, how? Should the proposal include any additional defined terms related to FOIA requests?

3. Making a Records Request to the FDIC Under FOIA

Proposed sections 309.12 and 309.13 would describe the requirements for requesting information from the FDIC under FOIA. These proposed sections would be generally consistent with the requirements currently codified at section 309.5 of part 309, with revisions to clarify existing processes, improve readability, and use more modern terminology.

The proposal would make certain changes related to how parties may request information from the FDIC under FOIA. First, section 309.13(c) would provide more explicit guidance on the contents of a records request, including by directing requesters to include details about the records sought so that the FDIC can locate them with a reasonable amount of effort, and stating that requests about very general topics, or those without limitations or dates, are more likely to be viewed as defective requests.

Second, proposed section 309.13(d) would add a new provision to clarify the FDIC's existing practice that individuals requesting records pertaining to themselves must satisfy the identify verification requirements established under 12 CFR 310.4(c), which ensures the FDIC's compliance with the Privacy Act.¹

Third, proposed section 309.13(e) would describe requirements for requesting information about third parties (*i.e.*, about parties other than the requester). Specifically, this paragraph provides that a requester seeking records regarding third parties may receive greater access to requested records by submitting a written authorization by the individual who is the subject of the record. This paragraph also provides that, when requested records concern a deceased individual, a requester must submit proof that the individual is deceased and that the FDIC may require other verification documentation.

4. FDIC Practices for Processing FOIA Requests

Paragraph (d) of section 309.5 of the current rule establishes how the FDIC processes requests for information under FOIA. The proposal would include substantively consistent provisions, with modifications to clarify

existing procedures and improve readability.

Proposed section 309.14 would generally replace paragraph 309.5(d) of the current rule and explain how the FDIC processes requests for information. Proposed section 309.14 would also include an updated and more detailed description of how the FDIC conducts multitrack processing and may aggregate certain requests. Proposed section 309.15 would establish how the FDIC conducts expedited processing for certain requests. This section is generally consistent with section 309.5(d)(3) of the current rule, with modifications to clarify existing practices and improve readability. Furthermore, proposed section 309.15 would establish that, in addition to the current rule's eligibility criteria, requests that involve the loss of substantial due process rights or possible questions of federal government integrity may be eligible for expedited processing. Any request for expedited processing would be required to be made concurrently with the initial record request and include a statement explaining the basis for expedited processing.² In addition, proposed section 309.16 would replace paragraph 309.5(j) of the current rule and provide additional detail regarding the circumstances under which the FDIC may consult with, and refer requests to, another agency that may have an interest in a request received by the FDIC.

5. Fees for FOIA Requests

Proposed sections 309.17 through 309.21 would provide a general overview of the fees charged by the FDIC to requesters and how requesters may seek a waiver or reduction of fees. While substantively consistent with section 309.5(f) of the current rule, the proposal would make significant revisions to the fees-related provisions of part 309 to clarify existing procedures and improve readability.

Proposed sections 309.19 and 309.20 explain how the FDIC charges fees to requesters and requests payment, replacing and clarifying section 309.5(f)(1) of the current rule. In particular, proposed section 309.19 clarifies that, if the FDIC notifies a requester of the estimated fee for a request and does not receive a response or request for modification from the requester within thirty calendar days, the request will be closed. Additionally, proposed section 309.19 provides

² Proposed section 309.15 also would permit the FDIC to move any request to expedited processing as appropriate.

¹ 12 U.S.C. 552a.

details regarding when advanced payment of fees is required and explains the circumstances in which fees will not be charged, noting that absent unusual or exceptional circumstances, the FDIC will not charge certain fees if the FDIC fails to comply with the time limits in which to respond to a request.

Finally, to promote transparency and better align the information disclosure regulations with applicable statutory requirements, proposed section 309.21 would clarify the factors the FDIC considers when evaluating whether a waiver or reduction of fees may be appropriate on public interest grounds. Providing this information directly in part 309 would help inform requests for a waiver or reduction in fees.

6. Dispute Resolution and Administrative Appeals

Proposed sections 309.22 and 309.23 would describe the processes available to a requester for dispute resolution and administrative appeals of requests for information that have been subject to adverse determinations. These proposed sections are generally consistent with the provisions currently codified at paragraphs (h) and (i) of section 309.5 of part 309, with revisions to clarify existing processes and improve readability. For example, section 309.22 now clarifies that dispute resolution is a voluntary process, and section 309.23 details what constitutes adverse determinations by the FDIC, which may be appealed through the administrative process, and also provides more specific instructions on how and when an appeal must be submitted.

7. Supplemental Procedures for Confidential Commercial Information

Executive Order 12600 requires that agencies subject to FOIA “establish procedures to notify submitters of records containing confidential commercial information . . . when those records are requested” under FOIA, if the agency “determines that it may be required to disclose the records.”³ Proposed section 309.24 would add new supplemental procedures regarding both the submission and disclosure of confidential commercial information to better align the FDIC’s information disclosure regulations with this requirement.

First, proposed section 309.24 would clarify the requirements for a party that submits confidential commercial information to the FDIC (for example, confidential commercial information that an insured depository institution

may submit in connection with an application to the FDIC) to designate, at the time of submission or thereafter, information the submitter claims could reasonably be expected to cause substantial competitive harm if disclosed. Second, proposed section 309.24 would establish the process by which the FDIC would provide notice to a submitter of confidential commercial information in the event that a FOIA request would seek the disclosure of such information, how a submitter may object to disclosure, and how the FDIC would respond to an objection. If the FDIC were to provide notice to a submitter of a request under FOIA for confidential commercial information, proposed section 309.24 would also require the FDIC to inform the requester that such notice has been made.

Question 3: Do the proposed amendments to subpart B of part 309 help clarify the FDIC’s FOIA process?

Question 4: Are there additional revisions that can be made to subpart B of part 309 to clarify the FDIC’s FOIA process or reduce administrative burden?

C. Discretionary Disclosure of Confidential Information

1. Overview

Under the proposal, subpart C of part 309 would establish the FDIC’s policies and procedures regarding discretionary disclosures of confidential information that is exempt from disclosure under FOIA, replacing most of the provisions of section 309.6 of the current rule. Proposed subpart C would make a number of substantive changes to the current rule, including: (1) significantly expanding the categories of parties with which insured depository institutions and certain other entities can share confidential information without making a request to the FDIC, subject to certain conditions; (2) updating the process by which parties may request disclosure of confidential information to increase flexibility, including by allowing FDIC authorized directors to modify certain requirements and disclose confidential information on their own initiative; and (3) clarifying that the general standard for disclosure under this subpart is “good cause,” as determined by the appropriate authorized director.

These changes are being proposed to reduce or eliminate procedural barriers and inefficiencies that exist under the current rule. The FDIC intends for the proposed rule to streamline disclosures of confidential information, both by the FDIC and by insured depository institutions and other parties with

confidential information in their possession, while providing safeguards to ensure that such information remains appropriately protected. Additionally, the proposal would make a number of non-substantive changes to improve the rule’s clarity and readability.

2. Purpose, Scope, and General Requirements

Proposed section 309.30 would describe the purpose and scope of subpart C. Proposed sections 309.32 and 309.33 would establish the general prohibition on the disclosure of confidential information, except as permitted under subpart C. Proposed section 309.39 would establish the conditions and limitations that would apply to any disclosure of confidential information under subpart C. With the exception of the clarification of the “good cause” standard in section 309.30, as described in more detail in section II.C.4 of this Supplemental Information, these proposed provisions regarding the regulation’s purpose, scope, and general requirements are not intended to substantively modify the FDIC’s current information disclosure rules or practices.

The requirements, restrictions, and authorizations of subpart C would apply to all insured depository institutions (as well as other parties) in possession of FDIC confidential information in respect of such FDIC confidential information, regardless of whether the FDIC is the appropriate federal banking agency, as defined in section 3 of the Federal Deposit Insurance Act,⁴ in respect of an insured depository institution. For example, disclosure of FDIC confidential information by an insured depository institution for which the FDIC is not the appropriate federal banking agency must be authorized under subpart C. However, subpart C would neither restrict nor authorize the disclosure by an insured depository institution, including an insured depository institution for which the FDIC is the appropriate federal banking agency, or by any other party, of the confidential information of another federal banking agency or a state banking authority that an insured depository institution may possess. Additionally, the FDIC recognizes there are certain records or information that may be confidential information of both the FDIC and another supervisory agency. In such cases, insured depository institutions would still need to ensure their ongoing compliance with any information disclosure restrictions

³ E.O. 12600, 3 CFR 235 (1988).

⁴ 12 U.S.C. 1813.

and data privacy laws to which they may be subject.

Question 5: Should the FDIC provide additional clarity on disclosure of records or information that is confidential information of both the FDIC and another federal or state supervisory agency? If so, what additional clarity would be helpful?

3. Definitions

Proposed section 309.32 would introduce certain new defined terms that the FDIC believes will help clarify the FDIC's disclosure requirements regarding its confidential information.

Affiliate would mean any company that controls, is controlled by, or is under common control with another company as defined in 12 U.S.C. 1841(k).

Authorized director would mean any of the directors of FDIC divisions and offices, or their designees, who have primary responsibility for FDIC records or information; and deputies to the chairperson of the FDIC Board of Directors, to the extent such officials have primary responsibility for FDIC records or information.

Confidential information would mean any FDIC record or other FDIC information in any form that is exempt from disclosure under FOIA, and any information derived from or related to such FDIC record or information. This would include but is not limited to information about FDIC's supervision or resolution of depository institutions and financial companies; information about FDIC's enforcement of laws and regulations; and information about consumer complaints received by the FDIC. Confidential information would not include: (1) documents prepared by or for an insured depository institution, or any other party, for its own business purposes that are in its own possession, even though copies of such documents in the FDIC's possession otherwise would constitute confidential information; or (2) final orders, amendments, or modifications of final orders, or other actions or documents that are specifically required to be published or made available to the public pursuant to 12 U.S.C. 1818(u), the Community Reinvestment Act, or other applicable law.

Parent holding company would mean a company that has control of an insured depository institution. Control for purposes of this subpart C is defined in 12 U.S.C. 1841(a)(2).

Person would mean an individual, or an entity in any form, including a government agency.

Qualifying confidentiality agreement would mean an agreement that: (1) is

written; (2) is governed by the laws of the United States or a State of the United States; (3) prohibits the use of the information by the recipient for purposes other than that for which it is provided and provides that the recipient will not further disclose or make public in any manner the information; (4) limits access to the information at a recipient entity to those directors, officers, or employees who have a business need to know the information and are bound by the qualifying confidentiality agreement; and (5) expressly provides that the FDIC is an intended third-party beneficiary of the agreement and is permitted to enforce the terms of the agreement through a civil action filed in the U.S. District Court for the District of Columbia and any other court having jurisdiction and venue over disputes arising from the agreement.

Qualifying service provider would mean an entity that: (1) has a contractual relationship with a depository institution and (2) provides: (A) products or services to the institution that are used in connection with the provision of financial products or services to the depository institution's customers; (B) advisory or consulting services related to the management or operations of the depository institution; or (C) technological infrastructure to the depository institution. This definition would include third party "fintech" companies that provide services used in connection with the provision of financial products or services to customers. The definition is intended to strike a balance by capturing types of service providers with respect to which insured depository institutions have the greatest need to share confidential information, while excluding service providers that are less likely to need confidential information as part of the services provided.

Question 6: Are the proposed defined terms appropriate for the purpose and intent of proposed subpart B? Should the FDIC include any additional defined terms or modify any of the proposed defined terms?

Question 7: Is the proposed definition of confidential information appropriate? Should the definition be revised to broaden or narrow it to appropriately capture the types of FDIC information that should be treated as confidential by insured depository institutions?

Question 8: Is the proposed definition of qualifying confidentiality agreement appropriate? What, if any, additional terms or requirements should the FDIC consider to appropriately protect the integrity of confidential information?

For example, should a qualifying confidentiality agreement be required to be governed by U.S. law or include provisions that impose restrictions on how the confidential information is used, require the eventual destruction or return of the confidential information by the recipient, or require the recipient to acknowledge and consent to be subject to the FDIC's regulatory, examination, and enforcement authorities?

Question 9: Is the proposed definition of qualifying service provider appropriate? Should the definition be revised to broaden or narrow it to capture the universe of third parties that insured depository institutions should be able to share information with without requiring FDIC approval?

Proposed section 309.31 would not incorporate any terms currently defined in section 309.2 of part 309.⁵

4. The "Good Cause" Standard

The proposed rule would substantially clarify the standard under which the FDIC may approve the disclosure of confidential information. Specifically, proposed section 309.35 would establish "good cause" as the general standard for authorizing disclosure of confidential information and provide a non-exhaustive list of factors the authorized director may consider when making a good cause determination. This standard would apply to decisions by the FDIC to disclose confidential information under subpart C—either on its own initiative or in response to a request—and decisions by the FDIC to permit an insured depository institution to disclose to a third party confidential information in the insured depository institution's possession, in those circumstances where such approval would continue to be required.

The factors to be assessed under the good cause standard would include: (1) whether disclosure will serve a legitimate regulatory, supervisory, resolution, or law enforcement purpose; (2) whether there is another source for the confidential information; (3) whether disclosure of the confidential information is unduly burdensome or otherwise may adversely affect or prejudice the FDIC, its mission, or its operations; (4) the scope and nature of the confidential information; (5) the recipient's intended use of the confidential information; (6) whether disclosure is lawful; (7) whether the confidential information includes

⁵ The following terms would be removed from part 309 under the proposal: depository institution, disclose/disclosure, examination, record, report of examination, customer financial records, and director of the division having primary authority.

privileged information, trade secrets, or confidential commercial or financial information; and (8) whether disclosure would present safety and soundness or financial stability risks.

While the good cause standard and associated factors have been established as a matter of internal FDIC practice, they are not currently provided for in the FDIC's information disclosure regulations. The FDIC believes that incorporating the standard and associated factors into part 309 will help promote transparency and consistency in assessing potential disclosures of confidential information, as well as providing prior notice regarding the types of requests for disclosure that may not be authorized.

Question 10: Would the proposal provide sufficient clarity regarding the good cause standard?

Question 11: Should the FDIC consider any other factors when assessing whether there is good cause for disclosure of confidential information? Are any of the proposed factors not appropriate to be considered as part of the good cause standard?

5. Procedure for Requesting Discretionary Disclosure

Proposed section 309.34 would describe the process for an insured depository institution or other party to request discretionary disclosure of confidential information in a manner that is generally consistent with the FDIC's current information disclosure regulations. Proposed section 309.34 would also introduce certain changes to the FDIC's information disclosure regulations that are intended to provide for additional flexibility and streamline the process for requesting discretionary disclosure, where appropriate. First, proposed section 309.34 would expressly permit an authorized director to waive one or more of the generally applicable requirements for requesting a discretionary disclosure. In addition, proposed section 309.34 would also explicitly allow an authorized director to self-initiate the disclosure of confidential information without a request from a third party, provided that, in the authorized director's discretion, the good cause standard in proposed section 309.35 is satisfied.

6. Disclosure by the FDIC

Proposed section 309.36 would provide for the disclosure of confidential information by the FDIC to certain categories of parties that commonly make requests for confidential information. These include: (1) insured depository institutions and their affiliates; (2) federal, state, and

foreign financial regulatory and supervisory authorities; (3) civil investigative and criminal law enforcement agencies and authorities; and (4) certain supervised bank service providers, insured depository institutions that receive services from such service providers, and state and federal authorities that supervise financial institutions serviced by such serviced providers. Proposed section 309.36 would also provide for the disclosure of confidential information to any other party and clarify the authority of the FDIC chairperson to authorize the disclosure of confidential information, in both cases subject to the good cause standard.

While proposed section 309.36 is intended generally to conform to the authorizations and requirements currently codified at paragraphs (b)(1) through (b)(6) and (b)(9) of section 309.6 of the current rule, the proposal would make various modifications to improve consistency, eliminate unnecessary barriers to appropriate disclosures, provide transparency, and reflect current practices. In particular, while the FDIC's current information disclosure regulations sometimes apply different and unnecessarily complicated procedural requirements for authorizing the disclosure of confidential information to different categories of parties, the proposed rule would make all disclosures of confidential information made under proposed section 309.36 subject to the good cause standard established at proposed section 309.35. This is intended to promote consistency and transparency relative to the FDIC's current information disclosure regulations.

Other changes from the FDIC's current information disclosure regulations include proposed section 309.36(b), which expressly provides for disclosure by the FDIC to affiliates of insured depository institutions. Under the current rule, such disclosures would be considered disclosures to general third parties and subject to additional requirements that the FDIC does not believe are necessary for ensuring the confidentiality of information.

In addition, proposed section 309.36(c), would provide for disclosures of confidential information typically made by the FDIC to federal and state agencies, subject to the good cause standard. While the current rule provides a non-exhaustive list of specific federal government agencies with which the FDIC will share confidential information, the proposed rule is intended to better reflect the FDIC's general practice to disclose confidential information to any federal

or state agency where the good cause standard is satisfied.

Question 12: Is proposed section 309.36(c) sufficiently clear or should the rule more explicitly define the term "federal and state agencies"?

Question 13: What, if any, other revisions should the FDIC consider to clarify the parties to, and circumstances in which, the FDIC could disclose confidential information?

7. Disclosure of FDIC Confidential Information by Insured Depository Institutions and Their Parent Holding Companies

It has long been the FDIC's position that depository institutions should be able to disclose confidential information concerning their institution to certain third parties, such as accountants, legal counsel, certain service providers, and business partners, to the extent there is a necessary or appropriate business purpose for disclosing such information and the confidentiality of the information is maintained. These disclosures—subject to appropriate safeguards—facilitate normal business operations, including regulatory compliance.

The proposed rule would make significant changes to the requirements and restrictions regarding the disclosure of confidential information by insured depository institutions and certain other entities that may be in possession of confidential information. The requirements and restrictions that are presently applicable to the disclosure of confidential information by insured depository institutions are provided for at section 309.6(b)(7). Under section 309.6(b)(7), with the limited exception of the disclosure of certain examination materials to a parent holding company, any disclosure by an insured depository institution of confidential information in its possession requires the prior approval of the appropriate FDIC director. The FDIC's experience in implementing section 309.6(b)(7) has been that many types of requests from insured depository institutions are routinely approved. Requiring the FDIC's prior approval in these cases is time consuming, imposes unnecessary administrative burdens on insured depository institutions, and appears to serve no significant policy or other objectives. The FDIC is also aware that the broad restrictions on disclosure of confidential information under section 309.6(b)(7) may impose particular burdens for insured depository institutions in the context of their relationships with certain third-party service providers and other business partners. Furthermore, the FDIC's

broadly expansive requirement for prior approval for the disclosure of confidential information by insured depository institutions is not consistent with the information disclosure rules of other federal bank regulators, which allow for disclosure without prior approval in some instances.⁶

a. General Disclosure Authorizations

Consequently, while the current rule requires that insured depository institutions make a request and obtain FDIC authorization prior to disclosing confidential information to other parties in almost all circumstances, the proposed rule would enable insured depository institutions and certain other entities to disclose confidential information without prior approval from the FDIC in certain circumstances, subject to certain conditions. Disclosure of such confidential information without a request to the FDIC would not compromise safety and soundness and will, among other things, reduce burden, facilitate regulatory compliance, and improve efficiencies—including between an institution and third parties that have business relationships with the institution. The proposed rule would establish safeguards to help ensure the confidential information is adequately protected (and not used for impermissible purposes) by the recipient(s) of such information. In some circumstances, these safeguards include requiring recipients to have agreed to a qualifying confidentiality agreement. In addition, insured depository institutions may only share confidential information without FDIC approval if sharing is “necessary or appropriate for business purposes,” meaning it must be in furtherance of specific objectives related to the insured depository institution’s business.

In other circumstances, such as disclosure of certain confidential information by an insured depository institution to its affiliates and to directors, officers, and employees of its affiliates, no qualifying confidentiality agreement would typically be required. These changes are intended to reduce the burdens and detailed processes in the current rule to permit a more streamlined flow of confidential information between insured depository

institutions and other parties when necessary or appropriate for business purposes. The proposed rule would also retain the authority of the FDIC to authorize disclosure of confidential information in other circumstances, subject to the good cause standard.

In general, proposed section 309.37(a) would allow insured depository institutions to disclose confidential information to certain persons where necessary or appropriate for business purposes without making a request to the FDIC. In circumstances where disclosure of confidential information to a party would be neither necessary nor appropriate for a business purpose, such disclosure would not be authorized under proposed section 309.37(a).

Proposed paragraphs (a)(1)(i) and (ii) of section 309.37 would allow insured depository institutions to disclose, without prior approval of the FDIC, confidential information to (1) the insured depository institution’s own directors, officers, or employees (as permitted under the current rule); and (2) the insured depository institution’s affiliates and the directors, officers, or employees of the insured depository institution’s affiliates. The FDIC has observed that requests for disclosing confidential information to affiliates are typically necessary or appropriate for business purposes. Furthermore, the FDIC routinely approves requests to disclose confidential information to affiliates under the current rule and has not observed that such disclosures present risks to the integrity of its confidential information. Accordingly, the FDIC believes that permitting such disclosures to take place without the FDIC’s prior approval will reduce administrative burden for insured depository institutions and permit a more efficient sharing of information between insured depository institutions and affiliates when necessary or appropriate for business purposes.

Subject to entering into a qualifying confidentiality agreement with the intended recipient of the confidential information, proposed paragraphs (a)(1)(iii) through (vi) of section 309.37 would allow insured depository institutions to disclose confidential information, without the prior approval of the FDIC, to: (1) their external legal counsel, accountant, or auditor; (2) a shareholder of the insured depository institution that owns over 50 percent of the voting stock of the insured depository institution; (3) qualifying service providers, as defined in section II.C.3. of this Supplemental Information; and (4) individuals to whom an offer of employment has been made to serve as a senior executive officer, as defined in

12 CFR 303.101, of the insured depository institution. As with the disclosures that would be permitted under paragraphs (a)(1)(i) and (ii), the disclosures that would be permitted under paragraphs (a)(1)(iii) through (vi) are intended to reduce administrative burdens on insured depository institutions in connection with disclosure of confidential information to those parties where circumstances giving rise to a necessary or appropriate business purpose for such disclosure would be expected to regularly arise.

In addition, proposed section 309.37(a)(1)(vii) would allow insured depository institutions to disclose confidential information to directors, officers, employees, affiliates, auditors, and legal counsel of an insured depository institution that is a potential merger counterparty. Such authorization would be limited to three potential counterparties over a five-year period and subject to certain other conditions. These restrictions, however, would not apply where there is a written agreement to enter into a merger or similar transaction in place between the insured depository institution and any counterparty.

The FDIC regularly receives requests from insured depository institutions to disclose confidential information in the context of a merger transaction and recognizes that such information can be highly relevant for potential merger counterparties. The FDIC believes that, subject to certain conditions, permitting insured depository institutions to disclose confidential information to potential merger counterparties that are themselves insured depository institutions should help facilitate these transactions without presenting undue risk of inappropriate disclosure of confidential information. The FDIC notes, however, that access to the confidential information contemplated to be disclosed under section 309.37(a)(1)(vii) is not intended to replace a potential counterparty’s due diligence for such transactions.

Under the proposal, confidential information that is shared under paragraphs (a)(1)(iii) through (vii) of section 309.37 would be subject to the requirement that, prior to or concurrently with any such disclosure, the insured depository institution must enter into a qualifying confidentiality agreement with the intended recipient of the information. The requirements for a qualifying confidentiality agreement are described in section II.C.3 of this Supplemental Information.

Question 14: Does the proposal appropriately identify the types of parties to, and circumstances in which,

⁶ For example, the Office of the Comptroller of the Currency explicitly allows national banks and Federal savings associations to disclose non-public OCC information to attorneys, auditors, and consultants without a request under 12 CFR 4.37(b)(2). Additionally, the Board of Governors of the Federal Reserve System explicitly allows supervised financial institutions to disclose confidential supervisory information to its legal counsel, auditors, and service providers without a request under 12 CFR 261.21(b)(3)–(4).

an insured depository institution should be permitted to share confidential information without the prior approval of the FDIC? Are there additional parties or circumstances in respect of which an insured depository institution should be permitted to share confidential information without the prior approval of the FDIC? If so, please explain why the benefits of permitting greater information sharing with such parties and in those circumstances would outweigh the costs associated with the risk of inappropriate disclosure of confidential information. Are there any parties listed in section 309.37(a) of the proposal that should be removed or narrowed?

Question 15: Would the safeguards to be introduced under the proposal sufficiently mitigate the risk of inappropriate disclosure of confidential information? Should the FDIC consider any additional safeguards? For example, should insured depository institutions be required to maintain a written record of disclosures of confidential information and the legal basis for such disclosures? If so, should this requirement be applicable to any disclosure or only in respect of disclosures to certain recipients (e.g., disclosures to qualifying service providers)?

Question 16: Should different types of confidential information be subject to more stringent safeguards than those contemplated under the proposal?

b. Disclosure of Historical Information

Proposed section 309.37(b) would allow insured depository institutions to disclose confidential information if at least twenty-five years have elapsed since that confidential information was created, unless otherwise notified by the FDIC, and any such disclosure maintains compliance with privacy and trade secret laws. The FDIC believes that the justifications for maintaining the confidentiality of information would generally be diminished after twenty-five years. Such information may still be of value, however, for research, analytical, and other purposes. Accordingly, the FDIC believes it is appropriate to allow for the disclosure of such information without the prior approval of the FDIC.

Question 17: Would this proposed authorization to disclose historical information be of value?

Question 18: Is twenty-five years the appropriate amount of time required to have passed to permit the disclosure of historical confidential information? If not, what other time period would be more appropriate?

Question 19: What, if any, safeguards, should the FDIC require in respect of the disclosure of historical confidential information? Are there any types of historical confidential information in respect of which FDIC approval is required prior to disclosure?

c. Disclosure of Confidential Information by Parent Holding Companies

The proposed rule would permit a parent holding company of an insured depository institution that is lawfully in possession of the FDIC's confidential information to disclose such confidential information, without the prior approval of the FDIC, to the same extent and subject to the same conditions, and to the same categories of recipients, as an insured depository institution could disclose confidential information under sections 309.37(a) or 309.37(b). This would allow the parent holding company to, for example, disclose FDIC confidential information to its affiliates, lawyers, auditors, accountants, and qualifying service providers of the parent holding company, when necessary or appropriate for business purposes, without a request to the FDIC. This provision is intended to maintain consistency with the proposed insured depository institution sharing provisions and would similarly reduce unnecessary procedural hurdles for the disclosure of this information by parent holding companies in these circumstances.

d. Disclosure of Data for Aggregated Analyses

The FDIC recognizes there may be value in third party entities being able to receive certain FDIC confidential information on an aggregated basis from multiple insured depository institutions in order to provide transparency with respect to, and facilitate analysis of, the supervisory process, without requiring preapproval from the FDIC. Such third parties could include, for example, law firms or nonpartisan nonprofit banking trade associations. The FDIC seeks comments on the extent to which this is an appropriate purpose to permit disclosure of confidential information and how the FDIC might implement such an approach.

Question 20: To what extent should the FDIC permit sharing confidential information with additional third parties for purposes of aggregating information across insured depository institutions? To what type(s) of entities should the FDIC consider allowing access to such information? What safeguards, if any, should the FDIC

consider to help ensure such information sharing would not raise antitrust or other concerns?

Question 21: If the FDIC were to permit FDIC-supervised institutions to share confidential information with organizations for these purposes, should the FDIC place limits on the types and nature of information that may be shared? Should the FDIC consider different types of limits or requirements depending on the type of entity receiving the information?

Question 22: Should the FDIC take any steps to mitigate the risk that the identity of a specific institution that is the subject of the information can be reverse engineered, and if so how?

Question 23: To what extent should such organizations be able to make public disclosures on the basis of aggregated information that has been derived from FDIC confidential information? What, if any, risks may be posed by inaccuracies in such public disclosures, and what, if any, requirements should the FDIC consider to mitigate such risks?

8. Disclosure of FDIC Confidential Information by Service Providers and Other Persons

The FDIC has observed that third-party service providers that are subject to examination by the FDIC (FDIC-examined service providers) may be in possession of confidential information that could be relevant to their insured depository institution partners. Accordingly, proposed section 309.37(e) would allow FDIC-examined service providers in possession of confidential information to share such confidential information with insured depository institutions to which they are providing services without the prior approval of the FDIC, subject to certain limitations. As with other disclosures of confidential information that would be permitted without the prior approval of the FDIC, the disclosure of confidential information by these service providers to their insured depository institution partners would only be permitted when necessary or appropriate for a business purpose. Such service providers would also need to have in place a qualifying confidentiality agreement with the intended recipient of the information.

The FDIC is not, at present, proposing to permit an FDIC-examined service provider to disclose confidential information without the prior approval of the FDIC to parties other than an insured depository institution that is an existing partner. The FDIC recognizes, however, that there may be benefits to facilitating greater disclosure of confidential information by FDIC-

examined service providers to other parties—for example, insured depository institutions that are evaluating whether to enter into a business partnership with such a service provider and seeks comment on whether expanding this provision would be appropriate.

Question 24: Should an FDIC-examined service provider be permitted to share confidential information with insured depository institutions that are potential partners? If so, what conditions or safeguards should apply to such arrangements? Should an FDIC-examined service provider be permitted to share confidential information with any other type of parties?

Finally, proposed section 309.38 would provide for disclosures by other parties that may have confidential information in their possession. Consistent with section 309.6(b)(7)(ii) of the current rule, such disclosures would be subject to the prior approval of the FDIC. The proposed rule, however, would simplify the requirements for such disclosures, including by eliminating the requirement that such approval be preceded by a written request for disclosure. Under certain exigent circumstances, such as a significant financial crisis, a written request may neither be timely nor necessary.

Question 25: Would the proposed amendments clarify and streamline the process for requesting discretionary disclosure of FDIC confidential information?

Question 26: What are the advantages and disadvantages of permitting FDIC-supervised institutions to disclose confidential information to the categories of third parties identified in the proposed rule? Should these provisions apply to other categories of third parties and, if so, why? If the FDIC were to extend the applicability of these provisions to other third parties, are there additional requirements that should apply and, if so, to what type of information sharing arrangements?

D. Disclosure of Confidential Information in Legal Proceedings in Which the FDIC Is Not a Party

1. Overview and Scope

Parties in litigation not involving the FDIC may at times believe the FDIC is in possession of information that is relevant to their litigation. Requirements and restrictions applicable to the disclosure of FDIC information in legal proceedings in which the FDIC is not a party (*i.e.*, legal proceedings that do not involve the FDIC or any of its directors, officers, or employees as a party) are

currently provided for at section 309.6(b)(8) of part 309. The proposal would reorganize these provisions into a new subpart D of part 309. The procedure for requests, as provided in subpart D, is intended to promote cooperation between the FDIC and parties or other persons seeking FDIC information for use in a non-party legal proceeding; allow the FDIC to responsibly manage the burden on its staff and resources in searching for, reviewing, and producing FDIC information; and avoid expensive and time-consuming disputes over FDIC information. While the FDIC intends for subpart D generally to be consistent the requirements and restrictions of current section 309.6(b)(8), the proposed rule would introduce revisions to provide greater transparency and clarity, as well as certain substantive changes described below in sections II.D.2 through II.D.5 of this Supplemental Information.

Question 27: Does proposed subpart D provide sufficient clarity with respect to the requirements and restrictions applicable to the disclosure of FDIC information in legal proceedings in which the FDIC is not a party? What, if any, changes should the FDIC consider in respect of proposed subpart D?

2. Definitions

Proposed section 309.51 would introduce certain new defined terms that the FDIC believes will help clarify the FDIC's requirements and restrictions regarding disclosure of its information in legal proceedings in which the FDIC is not a party.

Access to FDIC documents or property would mean to produce, provide, or allow examination of FDIC documents or property.

Discovery demand would mean a subpoena, court order, request for production of documents, interrogatories, notice of deposition, motion to compel, or other notice or order in a legal proceeding requiring the FDIC or any other person in possession, custody, or control of FDIC information to provide FDIC information for use or possible use in the legal proceeding.

FDIC documents or property would mean documents, electronically stored information, tangible things, and premises that are owned by or were created by the FDIC except documents or property of a depository institution or financial company in FDIC receivership or conservatorship that the FDIC has transferred to the custody of a contractor, servicer, acquiring institution, bridge bank or other successor institution, or other third party in the course of the FDIC's

depository institution or financial company resolution activities.

FDIC information would mean any FDIC documents, property, or FDIC testimony.

FDIC testimony would mean testimony by a current or former director, officer, employee, agent, or contractor of the FDIC concerning: (1) FDIC documents or property; or (2) knowledge or experience acquired, or communications or activities engaged in, as part of their official duties or otherwise related thereto or because of their official status while such individuals were employed by or acted as agent, contractor, or otherwise on behalf of the FDIC.

Legal proceeding would mean a judicial or administrative adjudication, action, case, matter, hearing, trial, arbitration, formal inquiry, formal investigation, or similar proceeding initiated before or subject to a court, agency or agency members, commission, board, grand jury, arbitrator, administrative law judge, hearing officer, or other authorized official or body, whether criminal, civil, or administrative in nature, under federal, state, local, or foreign law.

Non-party legal proceeding would mean a legal proceeding in which neither the FDIC (in the capacity to which the process is directed) nor an FDIC director, officer, or employee (in the capacity to which the process is directed) is a party.

Party would mean a person that is asserting claims or defending against claims in a legal proceeding. This would not include a person who intervenes, joins, or appears in a legal proceeding for a limited or special purpose, such as to contest a subpoena or seek a protective order in non-party discovery.

Person would mean an individual or an entity in any form, including a governmental organization.

Request would mean a written statement in which a party or other person involved in a legal proceeding asks the FDIC to provide or authorize access to FDIC documents or property or authorize FDIC testimony for use in a legal proceeding.

Testimony would mean a sworn or unsworn statement made by an individual for use or possible use by a party in a legal proceeding. Testimony may include, but is not limited to, live statements at a deposition, hearing, trial, or interview in person or by audio or visual communication; written or recorded responses to questions; or an affidavit, declaration, sworn statement, certification, or attestation.

Use, with respect to FDIC information provided in accordance with subpart D,

would mean that, subject to conditions and limitations required by the FDIC general counsel or designee, authorized parties or other persons involved in a legal proceeding may disclose FDIC information in the legal proceeding in the same manner and with the same protections as information obtained in discovery in the legal proceeding.

Proposed section 309.51 would not incorporate any terms currently defined in section 309.2 of part 309.

3. Use and Request of FDIC Information in a Non-Party Legal Proceeding

Proposed sections 309.52 and 309.53 would provide for the general prohibition on the use of FDIC information in non-party legal proceedings without express authorization by the FDIC general counsel or designee and describe when and how to submit a request for FDIC information in a non-party legal proceeding, including the content that should be included in a request. Consistent with the current rule, a party would be required to make such a request prior to seeking FDIC information by means of a subpoena or other discovery demand. While the FDIC believes proposed sections 309.52 and 309.53 to be significantly simplified and clarified relative to the current rule, these proposed sections are not intended to introduce any substantive changes to current regulatory requirements or practices.

4. Decisions on Requests

Proposed section 309.54 would establish the process by which the FDIC general counsel or designee would consider and reach a determination on requests for FDIC information submitted under subpart D. While generally consistent with the current rule and existing FDIC practice, proposed section 309.54 would provide for greater transparency by identifying the factors that the FDIC general counsel or designee would consider when evaluating requests. These include (1) the contents of the request; (2) whether confidential, personal, commercial, or supervisory information is being requested and, if so, the risk that such information could be publicly disclosed; (3) whether fulfilling all or part of the request will materially interfere with the FDIC's operations; and (4) the public interest. Providing for these considerations directly in section 309.54 would help to inform the content of such requests.

Proposed section 309.54 would also provide requesters an avenue to seek reconsideration of the FDIC general counsel's decision within ten business

days after the date of the written decision. After receipt of a request for reconsideration, the FDIC general counsel would have ten business days to review and decide on the request. A denial of such a request would be considered a final decision and would exhaust the requesting party's administrative remedies with respect to the request for FDIC information, thereby permitting such party to seek judicial review of such a final decision under the Administrative Procedure Act.⁷

5. Waiver of Requirement for Requests

Proposed section 309.55 would introduce the authority of the FDIC general counsel or designee to waive the request process otherwise provided for in subpart D. The FDIC believes that the introduction of such waiver authority will provide flexibility to both the FDIC general counsel and prospective requesters in circumstances where the request process is unviable, unnecessary, or otherwise unduly burdensome.

III. New Part 306 on Service of Process

A. Overview, Purpose, and Scope

The FDIC's service of process provisions are currently codified at 12 CFR 309.7. The FDIC has observed that such provisions could benefit from further clarity through various revisions and the use of defined terms. The FDIC also believes that the current placement of its service of process provisions in part 309 may be potentially confusing to stakeholders, because the service of process provisions bear little relation to the processes and requirements for seeking disclosure of confidential information pursuant to part 309.

To address these concerns, the proposal would recodify the FDIC's legal service provisions as a separate part of the FDIC's regulations, 12 CFR part 306. The proposal also would introduce new provisions and defined terms to clarify ambiguities observed in the FDIC's current service of process provisions.

Specifically, the proposal would clarify that part 306 applies to services of process directed to any of the following parties, whether or not as a party to a legal proceeding: (1) the FDIC; (2) any FDIC director, officer, or employee in an official capacity; (3) any FDIC director, officer, or employee in an individual capacity for an act or omission occurring in connection with one's duties performed on behalf of the FDIC (regardless of whether the

individual also is served process in an official capacity); and (4) the FDIC and any FDIC director, officer, or employee in connection with process in a non-party proceeding requiring, generally, testimony related to FDIC duties or knowledge acquired while performing such duties or production of documents or information in the possession of the FDIC.

Question 28: Does the proposal help to clarify the scope of application of the FDIC's legal service provisions? Are there any revisions that could be made to improve the clarity of proposed scope?

B. Definitions

Section 306.2 of the proposed rule would introduce defined terms specifically related to service of process intended to help address areas of potential ambiguity in the current regulation. Proposed section 306.2 would include the following defined terms:

FDIC's agent for service of process would mean a person authorized by the FDIC to accept delivery of process on behalf of the FDIC in any capacity or on behalf of an FDIC director, officer, or employee in their official capacity and includes:

- The FDIC's executive secretary or designee at FDIC, 550 17th Street, NW, Washington, DC 20429; and
- The FDIC's agent for of process at the appropriate geographic area, as listed on the FDIC's website.

Legal proceeding would mean a judicial or administrative adjudication, action, case, matter, hearing, trial, arbitration, formal inquiry, formal investigation, or similar proceeding initiated before or subject to a court, agency or agency members, commission, board, grand jury, arbitrator, administrative law judge, hearing officer, or other authorized official or body, whether criminal, civil, or administrative in nature, under federal, state, local, or foreign law.

Party would mean a person that is asserting claims or defending against claims in a legal proceeding. Party would not include a person who intervenes, joins, or appears in a legal proceeding for a limited or special purpose, such as to contest a subpoena or seek a protective order in non-party discovery.

Person would mean an individual or an entity in any form, including a governmental organization.

Process would mean a summons, complaint, pleading, motion, subpoena, writ, discovery demand, or other notice or order issued in a legal proceeding and required to be served upon a

⁷ 5 U.S.C. 702.

person. Process includes both physical documents and electronic documents to the extent authorized by the law applicable to the legal proceeding.

Serve or service would mean delivery of process in accordance with the rules applicable to the particular jurisdiction, type of legal proceeding, stage of the legal proceeding, and type of process. The applicable rules may specify methods for delivery of process; persons or representatives authorized to accept delivery; delivery to multiple recipients; time limitations for effecting service; and other requirements.

Question 29: Would the definitions provided under proposed section 306.2 help to address areas of ambiguity in the FDIC's current service of process provisions? Are there additional defined terms that should be included? If so, what are they, and how would they help to address an ambiguity under the current service of process provisions?

C. Service of Process Requirements and Processes

Proposed section 306.3 would describe the procedures to serve process on the FDIC, an FDIC director, officer, or employee in an official capacity, and the procedures to serve process on an FDIC director, officer, or employee in an individual capacity. Relative to the current service of process provisions in 12 CFR 309.7, proposed section 306.3 would clarify the service procedures by providing, in a more organized and streamlined format, details on how and whom to serve at the FDIC, as well as a listing of the FDIC's agents for service of process, by geographic area. When serving a director, officer, or employee in an individual capacity, section 306.3(b) would provide that service of process must be made to the United States as well as the officer or employee, and requires a copy of such service of process to be sent to an FDIC agent for service of process. This provision would help to ensure the FDIC remains apprised of process served on its directors, officers, or employees that may require disclosure of the FDIC's confidential information.

Question 30: Would proposed section 306.3 improve the clarity of the FDIC's current service of process provisions under section 309.7? Are there additional revisions that could be made to address areas of ambiguity in the current rule?

IV. Technical Amendments to Other Parts of the FDIC's Regulations

Certain sections of parts 303, 327, and 337 of the FDIC's regulations include cross-references to various provisions of part 309. If part 309 is amended as

proposed, these references would refer to sections of part 309 that either no longer exist or have been recodified at a different section of part 309. The proposal would, therefore, amend those sections of parts 303, 327, and 337 to incorporate references to the appropriate sections of part 309, as would be amended under the proposal.

V. Expected Effects

The proposed rule would revise the FDIC's regulations related to the processing of FDIC records under FOIA, as well as the FDIC's restrictions on the disclosure of confidential information not subject to release under FOIA (confidential information). Specifically, the proposed rule would authorize insured depository institutions, their bank holding companies, and certain other entities to share confidential information with certain parties enumerated in the rule for business purposes without the prior approval of the FDIC. The proposed rule would also relocate the FDIC's procedures on the service of process to a new part 306.

This section summarizes the analysis performed by the FDIC to estimate the economic impact of the proposed rule. For this purpose, the FDIC compares estimated economic outcomes under the proposed rule to outcomes under a baseline that resembles a world in which the proposed rule is not promulgated.

A. Scope of Affected Entities

The proposed rule would generally apply to any person that possesses or comes to possess confidential information; however, the FDIC expects that the typical holder of such information would be an insured depository institution or an insured depository institution holding company. As of the quarter ending December 31, 2025, the FDIC insured 4,345 depository institutions⁸ and there were 3,600 active holding companies according to FR Y-9C and FR Y-9SP filings.⁹ The proposed rule would also impact FDIC-examined service providers, of which there are 108 as of May 2026.

Certain provisions of the proposed rule would apply to any person that files a FOIA request with the FDIC or serves legal process on the FDIC. The FDIC received 1,536 FOIA requests in the fiscal year ending September 30, 2025.¹⁰ The FDIC is unable to estimate

the number of persons that may be involved in litigation that requires service of process on the FDIC.¹¹

Finally, the proposed rule would apply to any insured depository institution that would seek to disclose certain confidential information to certain categories of third-party recipients without prior authorization from the FDIC. To estimate this population, the FDIC reviewed requests to disclose confidential information that it received pursuant to part 309 over approximately the past ten years. Based on a review of internal FDIC data, the FDIC received approximately 2,900 requests between the second quarter of 2016 and the second quarter of 2026, for an average of approximately 300 requests per year. Under a conservative assumption that each request is made by a unique institution, this provision of the proposed rule would affect nearly 300 insured depository institutions each year.

B. Expected Benefits

If finalized, the proposed rule would update and clarify the FDIC's regulations regarding the process for submitting FOIA requests, the service of process on the FDIC, as well as the disclosure of FDIC records and other confidential information. The FDIC expects considerable benefits would relate to the proposed changes to part 309 that would allow insured depository institutions to disclose confidential information to certain third parties in certain circumstances without seeking prior FDIC approval. The proposed rule's other changes to the FDIC's regulations would also produce benefits, such as improved ease of use and enhanced understanding by the public.

1. Discretionary Requests To Disclose Confidential Information

Certain benefits of the proposed rule would accrue to insured depository institutions seeking to share confidential information with third parties for business purposes. Presently and under the baseline, for an insured depository institution to disclose confidential information to a prospective recipient who is not a director, officer, or employee of the insured depository institution, the insured depository institution must seek the prior approval of the FDIC. Thus,

⁸ Call Reports, December 31, 2025.

⁹ December 31, 2025, FR Y-9C and FR Y-9SP data.

¹⁰ See FDIC Annual Freedom of Information Act Report for Fiscal Year 2025, Table V.A., at <https://www.fdic.gov/foia/annual-freedom-information-act-report-fiscal-year-2025.pdf>.

¹¹ For example, the FDIC may be served in connection with a lawsuit brought by a current or former employee, or may receive service of process as part of a legal challenge to the FDIC's regulations. The FDIC does not have specific figures on the number of times the FDIC receives service of process in a typical year.

whenever an insured depository institution wishes to share confidential information with a prospective recipient such as an accountant, auditor, consultant, or other service provider, it must first submit a written request to the FDIC that describes the information to be shared, the prospective recipient's interest in the information, and the prospective recipient's relationship to the insured depository institution that is requesting to disclose the information.¹² Preparing such a request entails a meaningful degree of time and effort by an insured depository institution's directors, officers, and/or employees. Beyond this direct burden—estimated below in section V.C of this Supplemental Information—the insured depository institution must then wait for a decision on its request, which impedes the institution's ability to promptly communicate necessary information to third parties.

Under the proposed rule, insured depository institutions would be authorized to disclose confidential information without prior FDIC approval to certain categories of third-party recipients—such as affiliates; external legal counsel, accountants, and auditors; shareholders holding more than 50 percent of the institution's voting stock; service providers; and potential senior executive officers to whom an offer of employment has been made—where necessary or appropriate to meet a business purpose and if they comply with certain confidentiality safeguards (as applicable). Insured depository institutions would also be authorized to disclose confidential information to directors, officers, employees, affiliates, auditors, and legal counsel of a potential counterparty with which the institution is contemplating a merger or other transaction,¹³ subject to certain limitations. Finally, insured depository institutions generally would be authorized to disclose confidential information after twenty-five years has elapsed since its creation.

The proposed rule would also provide parent holding companies of insured depository institutions with similar authority to disclose confidential information. This authority would be available for the same categories of recipient for the holding company as provided in section 309.37(a) for

insured depository institutions. In addition, the proposed rule would provide service providers subject to FDIC examination with a limited authority to disclose confidential information to their insured depository institution partners.

Of the approximately 2,900 requests to disclose confidential information received by the FDIC between the second quarter of 2016 and the second quarter of 2026, the FDIC estimates 655 would no longer be needed under the proposed rule.¹⁴ However, the number of requests not needed under the proposed rule may be greater than 665, because the FDIC's review may not have identified every request that would no longer be required.

The reduced volume of disclosure requests, representing approximately 69 fewer requests per year, would result in cost savings for insured depository institutions and their parent holding companies. The FDIC estimates that this reduction equates to an annual savings of at least \$19,807, or about \$290 per request.¹⁵ In addition, there may be

¹⁴ The requests received by the FDIC are stored in two separate repositories depending on the business unit of the FDIC that received the request. The FDIC performed a keyword search of 1,299 requests in one of the repositories received from insured depository institutions received over a period of 9.167 years and identified 360 that would not be necessary under the proposed rule (359 of which came from insured depository institutions and one from an entity other than an insured depository institution). The FDIC reviewed a random sample of 48 requests out of a total of 1,576 requests in the other repository received over 10 years and identified 9 requests from insured depository institutions out of the sample of 48 that would not be necessary under the proposed rule. Thus, the FDIC estimates that $(9/48) * 1,576 = 296$ of this group of requests would not be necessary under the proposed rule, for a total of 655 requests from insured depository institutions that would not be necessary under the proposed rule.

¹⁵ Subject matter experts at the FDIC estimated that the reduction in volume of disclosure requests as a result of the proposed rule would save affected institutions 135 hours per year on average. Subject matter experts also estimated that, of the time spent on requests, 31 percent is made up of time spent by an institution's executives and/or managers, 45 percent is made up of time spent by lawyers, 14 percent by compliance officers, and 11 percent by clerical staff. Using the following data on wage estimates and employee benefits costs, the FDIC estimated an hourly cost of compensation of \$146.72: Bureau of Labor Statistics: 'National Industry-Specific Occupational Employment and Wage Estimates: Industry: Credit Intermediation and Related Activities (5221 And 5223 only)' (May 2024), Employer Cost of Employee Compensation (March 2024), and Employment Cost Index (March 2024 and December 2025). Standard Occupational Classification (SOC) Codes: Exec. And Mgr = 11-0000 Management Occupations; Lawyer = 23-0000 Legal Occupations; Compl. Ofc. = 13-1040 Compliance Officers; IT = 15-0000 Computer and Mathematical Occupations; Fin. Anlst. = 13-2051 Financial and Investment Analysts; Clerical = 43-0000 Office and Administrative Support Occupations. This composite hourly cost of compensation, multiplied by 135 hours per year,

instances in which insured depository institutions have a need to share confidential information with certain third parties but choose not to due to the process for obtaining FDIC prior approval, but would share such information under the proposed rule. For this reason and others, the amount of savings may be greater than estimated given that the number of requests no longer needed under the proposed rule may be greater than estimated.

The figures above do not reflect the indirect benefits that may be realized from the proposed rule, namely that insured depository institutions would no longer be required to await the FDIC's approval before disclosing confidential information to certain entities, a process that can take up to two weeks on average. During this time, institutions currently are unable to promptly share confidential information that may be needed to inform critical, time-sensitive business decisions. Under the proposed rule, the delay associated with the current part 309 process would be eliminated for an estimated 23 percent of disclosure requests that would no longer require prior FDIC approval.¹⁶ The FDIC does not have the data necessary to quantify the benefits of this aspect of the proposed rule, however, they could be substantial depending on the business purpose for the disclosure.¹⁷

Additionally, the ability to share confidential information with certain potential senior executive officers to whom an offer of employment has been made could benefit both an insured depository institution and prospective officer by improving the ability of each party to make a more fully informed employment decision. Separately, the ability to share confidential information with a potential counterparty to a merger or other transaction would facilitate more robust due diligence.

In aggregate, the changes under the proposed rule could produce considerable efficiencies for insured depository institutions and related entities. Although the FDIC does not have the necessary data to quantify

yields a total estimated annual savings of \$19,807. Dividing this figure by 69 requests per year results in an estimated savings per request of \$287.

¹⁶ 655 requests no longer needed under the proposed rule/2,875 total requests = 23 percent, when rounded to the nearest integer.

¹⁷ The FDIC expects that the proposed rule would provide similar benefits to the parent holding companies and service providers of insured depository institutions, in connection with the proposed expanded authority for those entities to disclose certain confidential information. These entities would realize efficiencies from improved information sharing and faster decision making relative to the current part 309 process.

¹² 12 CFR 309.6(b)(7)(i). The FDIC's regulations also permit disclosure requests to be made by the party seeking the record. *See id.* In practice, however, the vast majority of disclosure requests are submitted by an agent of the insured depository institution in possession of the record.

¹³ A non-merger transaction would also be within the scope of this provision if subject to 12 U.S.C. 1817(j), 1842, 1828(c), or 1467a.

these benefits, the FDIC believes these efficiencies would be meaningful.

2. Other Changes

The proposed rule also updates and clarifies the FDIC's regulations governing its handling of requests under FOIA. Under the proposed rule, several provisions would be revised to more clearly describe the documents the FDIC makes available to the public and the process for submitting FOIA requests. The proposed rule also would add provisions describing the FDIC's administrative appeals process under FOIA and supplemental procedures for the submission and disclosure of confidential commercial information. In particular, the latter provision would require entities submitting confidential commercial information to the FDIC to designate the portions of its submissions that it considers to be protected from disclosure under Exemption 4 of FOIA, and provides that such protection would ordinarily expire 10 years from the date of submission unless the submitter requests and provides justification for a longer designation period. This provision would also provide submitters of confidential commercial information with notice and an opportunity to object when the FDIC determines that it may need to disclose that information.

To the extent the improved clarity of the FDIC's FOIA regulations facilitates the submission of complete and compliant FOIA requests, it may expedite the FDIC's processing of such requests, resulting in more prompt disclosure of responsive information. The proposed changes may also reduce the costs of preparing and submitting FOIA requests, thereby reducing an impediment to submitting a request. These benefits, in turn, may support a more informed public as well as improved accountability and transparency with respect to the FDIC's operations. Each of these outcomes would advance the public policy of openness that underlies the FOIA.

Additionally, the proposed rule would relocate the FDIC's service of process provisions from part 309 to a new part 306, because the service of process provisions are generally unrelated to those regarding the disclosure of information. The proposed rule would clarify the procedures to serve process on the FDIC in any capacity or an FDIC director, officer, or employee in their official capacity or otherwise in connection with acts or omissions occurring in connection with their FDIC duties. For example, the proposed rule would identify the FDIC's executive secretary or designee as agents

for service and would emphasize that service of process must be effected in accordance with the rules of the applicable jurisdiction in which the legal proceeding is taking place. The FDIC does not have the necessary information to quantify the effects of this aspect of the proposed rule on insured depository institutions, but expects the changes would improve the clarity and efficiency of the FDIC's service of process procedures.

In general, the proposed rule, if finalized, would clarify aspects of the FDIC's information disclosure regulations that are ambiguous, codify current practices to improve the public's understanding of the FDIC's information sharing processes, and harmonize the FDIC's regulations with those of the other federal banking agencies to the extent appropriate. In doing so, the proposed rule, if finalized, would enhance the public's understanding of the FDIC's information disclosure processes and improve the public's ability to engage and interface with those processes.

C. Expected Costs

The proposed rule would provide insured depository institutions with additional latitude to disclose confidential information when doing so is necessary and appropriate for a business purpose, and would require insured depository institutions disclosing confidential information to certain recipients to enter into a qualifying confidentiality agreement with the prospective recipient prior to or concurrent with the disclosure of such information. For purposes of the proposed rule, a "qualifying confidentiality agreement" is one that includes the provisions set forth in the proposed definition for this term. In addition, for an insured depository institution to disclose confidential information to a potential counterparty in a merger transaction,¹⁸ the proposed rule would require a written waiver from the counterparty of any claims against the FDIC arising from the confidential information. Finally, a party that wishes to use confidential information in a legal proceeding to which the FDIC is not a party must submit a request to the FDIC general counsel or designee.

The FDIC expects that any costs associated with the proposal would be small. First, while part 309 currently does not require an insured depository institution to enter into a confidentiality

agreement to obtain authorization to disclose confidential information, as a matter of practice the FDIC routinely imposes such a requirement as a condition of its authorization. Accordingly, the requirement to enter into a confidentiality agreement typically would not represent a new cost for insured depository institutions relative to the baseline.¹⁹

Second, the FDIC expects that there would be only minimal costs associated with requiring merger counterparties receiving confidential information to submit a written waiver of any claims against the FDIC that may otherwise arise from receipt of confidential information. There were 110 voluntary mergers per year on average between insured depository institutions over the three-year period ending December 31, 2025.²⁰ If each merger involved three potential counterparties²¹ for whom a written waiver was submitted, then 330 waivers per year would have been submitted if the proposed rule had been in place, at an estimated cost of only about \$180 per waiver submission.²² The proposed rule also could increase the risk that confidential information may be disclosed to unintended recipients not authorized to receive such information. However, the FDIC does not expect this risk to increase materially as a result of the proposal. The FDIC's longstanding practice has been to routinely approve the types of disclosures that would no longer require prior FDIC authorization under the proposed rule. Moreover, while the proposed rule would facilitate more

¹⁹ The same analysis would apply to the potential costs for expanded disclosure authority for parent holding companies of insured depository institutions and service providers, which would be similarly subject to a confidentiality agreement requirement.

²⁰ See <https://www.fdic.gov/community-banking-research-program/community-banking-structure-reference-data-fourth-quarter-2025>.

²¹ While mergers may involve fewer than three counterparties, the FDIC is using three as an estimate given the proposed rule's provision at proposed section 309.37(a)(1)(vii) limiting the disclosure of confidential information to three potential merger counterparties over a five-year period. Also, although many mergers may be completed without sharing confidential information with three counterparties, there are likely also potential mergers for which confidential information is shared, but which do not ultimately result in a merger. Accordingly, the estimate of three disclosures per completed merger attempts to account for both of these considerations.

²² The FDIC estimated that each waiver submission would take one hour and be completed by a lawyer at an estimated hourly compensation cost of \$180.27. See note 17 for information on the data underlying the estimation of hourly compensation by occupation. 330 waivers per year multiplied by 1 hour per waiver at an estimated hourly cost of \$180.27 equals about \$59,489 per year. \$180.27 per waiver equals \$59,489 divided by 330 waivers.

¹⁸ This provision would also apply to non-merger transactions subject to 12 U.S.C. 1817(j), 1842, 1828(c), or 1467a.

timely disclosure of confidential information, the persons authorized to receive such information under the proposed rule typically have significant connections to the insured depository institution making the disclosure and an interest in protecting confidential information regarding the institution. To share confidential information with persons who typically have less of an interest in or incentive to protect confidential information regarding an insured depository institution, the proposal would continue to require the FDIC's prior approval.

Finally, the proposal would generally remove restrictions on the disclosure of confidential information more than 25 years after its creation or last modification. This provision could help mitigate other costs associated with the proposal. This proposed change would recognize that the passage of time tends to diminish the need to maintain the confidentiality of sensitive information, under most circumstances.

D. Conclusion

Given the economic effects discussed in section V.A through V.C of this Supplemental Information, the FDIC expects that the benefits of the proposed rule would justify its costs.

The FDIC invites comments on all aspects of the supporting information provided in the Expected Effects section. The FDIC is particularly interested in comments on any material economic effects that the agency has not identified.

VI. Matters of Regulatory Procedure

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.²³ However, an initial regulatory flexibility analysis is not required if the agency certifies that the proposed rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined "small entities" to include banking organizations with total assets of less than or equal to \$850 million.²⁴

As detailed in the following statement of factual basis, the FDIC certifies that the proposed rule would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Generally, the FDIC considers a significant economic impact to be a quantified effect in excess of 5 percent of total annual salaries and benefits or 2.5 percent of total noninterest expenses. To estimate the economic impact of the proposed rule on each small entity, the FDIC compares expected outcomes under the proposed rule to expected outcomes under a baseline absent the proposed rule.

The proposed rule would apply to all FDIC-insured institutions, parent holding companies of insured depository institutions, persons and entities requesting information from the FDIC under FOIA, persons and entities requesting information from the FDIC in connection with legal proceedings, and persons and entities serving legal process on the FDIC. As of the quarter ending December 31, 2025, the FDIC insures 4,345 depository institutions, of which 2,996 are small.²⁵ In addition, 3,600 holding companies were active as of December 31, 2025 and filed a Y-9C or Y-9SP.²⁶ Of these, 2,253 are small entities for purposes of RFA.²⁷ The FDIC does not possess the data to estimate the population of the persons and entities other than insured depository institutions that are potentially affected by the proposed rule. However, the FDIC reviewed a random sample of 50 discretionary disclosure requests (requests) received over the last ten years from a full population of 1,262 DDRs. Of these requests, 19 were made by banks, 17 by government entities, and two by law and accounting firms, neither of which was a small entity. For 12 requests, it was not possible based on the data drawn to identify who made the request.

For the 31 requests that were potentially made by small entities (19 banks and 12 unknown), 12 were identified as being made by large banks, leaving an upper bound of 19 possible requests by small entities in the sample of 50, a proportion of 38 percent. Extrapolating this to the full population

affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the FDIC-supervised institution is "small" for the purposes of the RFA.

²⁵ Call Reports, December 31, 2025.

²⁶ December 31, 2025, FR Y-9C and FR Y-9SP data.

²⁷ Based on average assets reported in FR Y-9C data from March 31, June 30, and December 31, 2025, and in FR Y-9SP data from December 31, 2024, June 30, 2025, and December 31, 2025.

of 1262 requests over ten years gives an upper-bound estimate of 48 for the annual number of requests from small entities.²⁸

The largest effect of this rule on small entities is likely to be a reduction in the number of requests made by small insured depository institutions due to the change in regulation. Of the 19 requests submitted by potential small entities that were reviewed for this analysis, the FDIC estimates that eight would be rendered unnecessary by the proposed rule, a proportion of 42.1 percent. Applying this to the upper bound estimate (48 annual requests) yields an upper bound reduction of approximately 20 requests from small entities, so that at most 20 small entities will be affected each year. The FDIC does not consider 20 to be a substantial number of small entities, even under the extremely conservative assumption that making a single request in a year constitutes a significant economic impact.

The other effects of the rule which could impact small entities that are not contingent on filing a request are: (1) the benefit from reduced uncertainty about the FDIC's regulations governing disclosure of information; and (2) the potential risk of increased unauthorized sharing of confidential information. As discussed above, neither of these effects are material, particularly for small entities.

Based on the preceding statement of factual basis, the FDIC certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis is not required.²⁹

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. The FDIC is particularly interested in comments on any significant effects on small entities that the agency has not identified.

B. Paperwork Reduction Act

This notice of proposed rulemaking has been reviewed for compliance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). In accordance with the PRA, the FDIC may not conduct or sponsor, and an organization is not required to respond to, an information collection unless the information collection displays a currently valid Office of Management and Budget (OMB) control number. The

²⁸ 1,262 requests over ten years * 38% from small entities/10 years = 48.0 requests from small entities per year.

²⁹ 5 U.S.C. 605(b).

²³ 5 U.S.C. 601 *et seq.*

²⁴ The SBA defines a small banking organization as having \$850 million or less in assets and determines an organization's assets by averaging the assets reported on its four quarterly financial statements for the preceding year. See 13 CFR 121.201 (as amended by 87 FR 69118, effective December 19, 2022). Following these regulations, the FDIC uses an FDIC-supervised institution's

FDIC has reviewed the notice of proposed rulemaking and determined that it would introduce new information collection requirements pursuant to the PRA. The FDIC is seeking a new control number for these information collection requirements and will submit them to OMB for review and approval.

Proposed Information Collection:

Title: Disclosure of Information.

OMB Control No.: 3064–NEW.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Description: The proposed rule would update, clarify, and supplement the FDIC's regulations regarding the disclosure of confidential information by the FDIC and other parties. The information collection requirements in the proposed rule are as follows:

Section 309.34 would require requests for discretionary disclosure of

confidential information to be submitted to the FDIC.

Section 309.37(a)(1)(vii)(C) would require potential counterparties to submit a written waiver to the FDIC.

Section 309.52(b) and (c) and section 309.53 would require a party in a legal proceeding, or any person substantially involved in the legal proceeding, to submit a request to the FDIC general counsel or designee.

TABLE 1—SUMMARY OF ESTIMATED ANNUAL BURDEN
[OMB No. 3064–NEW]

Information collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Request for discretionary disclosure of confidential information related to resolution plans—Section 309.34 (Required to obtain or retain a benefit).	Reporting (On Occasion)	91	1	01:00	91
2. Request for discretionary disclosure of confidential information other than information related to resolution plans—Section 309.34 (Required to obtain or retain a benefit).	Reporting (On Occasion)	139	1	03:00	417
3. Written waiver—Section 309.37(a)(1)(vii)(C) (Required to obtain or retain a benefit).	Reporting (On Occasion)	330	1	01:00	330
4. Request to use FDIC information in a non-party legal proceeding—Section 309.52(b) and (c), Section 309.53 (Required to obtain or retain a benefit).	Reporting (On Occasion)	254	1	2:30	635
<i>Total Annual Burden (Hours)</i> .....	.....	.....	.....	.....	1,473

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility;

(b) The accuracy of the estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

All comments will become a matter of public record. Comments on aspects of this proposed rule that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the address listed in the **ADDRESSES** section. Written comments and recommendations for this information collection also should be sent within 60 days of publication of this document to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 60-day Review—Open for Public Comments” or by using the search function.

C. Riegle Community Development and Regulatory Improvement Act

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA),³⁰ in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on affected depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of the RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form. The FDIC invites comments that further will inform its consideration of the RCDRIA.³¹

³⁰ 12 U.S.C. 4802(a).

³¹ 12 U.S.C. 4802(b).

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act³² requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. The FDIC sought to present the proposed rule in a simple and straightforward manner. The FDIC invites your comments on how to make this proposal easier to understand. For example:

- Has the FDIC organized the material to suit your needs? If not, how could the material be better organized?

- Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be stated more clearly?

- Does the proposed rule contain language or jargon that is unclear? If so, which language requires clarification?

- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?

- What else could the FDIC do to make the proposed rule easier to understand?

E. Executive Orders 12866 and 14192

Executive Order 12866, as amended, directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is

³² 12 U.S.C. 4809.

necessary, to select regulatory approaches that maximize net benefits. This proposed rule was drafted and reviewed in accordance with Executive Order 12866. Within OMB, the Office of Information and Regulatory Affairs (OIRA) has determined that this rulemaking is not a “significant regulatory action” for the purposes of Executive Order 12866.

Executive Order 14192, titled “Unleashing Prosperity Through Deregulation,” was issued on January 31, 2025. Section 3(a) of Executive Order 14192 requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation. In furtherance of this standard, section 3(c) of Executive Order 14192 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations. This proposed rule, if finalized as proposed, is expected to be a deregulatory action under Executive Order 14192.

List of Subjects

12 CFR Part 303

Administrative practice and procedure, Bank deposit insurance, Banks, Banking, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 306

Administrative practice and procedure, Banks, Banking.

12 CFR Part 309

Banks, Banking, Credit, Freedom of information, Privacy.

12 CFR Part 327

Bank deposit insurance, Banks, Banking, Savings associations.

12 CFR Part 337

Banks, Banking, Reporting and recordkeeping requirements, Savings associations, Securities.

Authority and Issuance

For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation proposes to amend 12 CFR chapter III as follows:

PART 303—FILING PROCEDURES

- 1. The authority citation for part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1464, 1813, 1815, 1817, 1818, 1819(a) (Seventh and Tenth), 1820, 1823, 1828, 1829, 1831a, 1831e,

1831o, 1831p–1, 1831w, 1835a, 1843(l), 3104, 3105, 3108, 3207, 5414, 5415, and 15 U.S.C. 1601–1607.

§ 303.8 [Amended]

- 2. Amend § 303.8(a) by, in the last sentence, removing “in accordance with § 309.5(f) of this chapter” and adding “in accordance with § 309.18(c) of this chapter” in its place.

§ 303.41 [Amended]

- 3. Amend § 303.41(b) by, in the last sentence, removing “; see § 309.4(a) and (b) of this chapter for availability”.

§ 303.60 [Amended]

- 4. Amend § 303.60 by removing “; see § 309.4(a) and (b) of this chapter for availability”.

§ 303.62 [Amended]

- 5. Amend § 303.62(b)(3) by, in the last sentence, removing “; see § 309.4(a) and (b) of this chapter for availability”.
- 6. Add part 306 to read as follows:

PART 306—SERVICE OF PROCESS

Sec.

306.1 Scope.

306.2 Definitions.

306.3 Service of process.

306.4 Reporting receipt of process to the FDIC General Counsel.

PART 306—SERVICE OF PROCESS

Authority: 12 U.S.C. 1819 Seventh and Tenth.

§ 306.1 Scope.

This part applies to service of process directed to any of the following, whether as a party or as a non-party to a legal proceeding:

- (a) the FDIC;
- (b) any FDIC director, officer, or employee in an official capacity;
- (c) any FDIC director, officer, or employee in an individual capacity for an act or omission occurring in connection with duties performed on the FDIC’s behalf (whether or not the director, officer, or employee is also sued in an official capacity); and
- (d) the FDIC in any capacity and any FDIC director, officer, or employee in connection with process in a non-party proceeding requiring: attendance and testimony concerning duties performed on the FDIC’s behalf or knowledge or information acquired in the course of performing such duties or related to such duties; or production of designated documents, electronically stored information, or tangible things or the inspection of premises in the FDIC’s possession, custody, or control.

§ 306.2 Definitions.

FDIC means the Federal Deposit Insurance Corporation in any capacity, including as receiver, as conservator, and in its corporate capacity.

FDIC’s agent for service of process means a person authorized by the FDIC to accept delivery of process on behalf of the FDIC in any capacity or on behalf of an FDIC director, officer, or employee in their official capacity, and includes:

(1) the FDIC’s agent for service of process for the appropriate geographic area, as listed on the FDIC’s website; and

(2) the FDIC executive secretary or designee at FDIC, 550 17th Street NW, Washington, DC 20429.

Legal proceeding means a judicial or administrative adjudication, action, case, matter, hearing, trial, arbitration, formal inquiry, formal investigation, or similar proceeding initiated before or subject to a court, agency or agency members, commission, board, grand jury, arbitrator, administrative law judge, hearing officer, or other authorized official or body, whether criminal, civil, or administrative in nature, under federal, state, local, or foreign law.

Party means a person that is asserting claims or defending against claims in a legal proceeding. For purposes of this part, party does not include a person who intervenes, joins, or appears in a legal proceeding for a limited or special purpose, such as to contest a subpoena or seek a protective order in non-party discovery.

Person means an individual or an entity in any form, including a governmental organization.

Process means a summons, complaint, pleading, motion, subpoena, writ, discovery demand, or other notice or order issued in a legal proceeding and required to be served upon a person. Process includes both physical documents and electronic documents to the extent authorized by the law applicable to the legal proceeding.

Serve or service means delivery of process in accordance with the rules applicable to the particular jurisdiction, type of legal proceeding, stage of the legal proceeding, and type of process. The applicable rules may specify methods for delivery of process; persons or representatives authorized to accept delivery; delivery to multiple recipients; time limitations for effecting service; and other requirements.

§ 306.3 Service of process.

(a) *Service on the FDIC in any capacity or an FDIC director, officer, or employee in an official capacity.* Any person or party desiring to properly

initiate process upon the FDIC or an FDIC director, officer, or employee in an official capacity as a party must serve the United States and the FDIC in the manner specified by Rule 4(i) of the Federal Rules of Civil Procedure. For all other process, the only authorized recipients of service directed to the FDIC in any capacity or an FDIC director, officer, or employee in an official capacity are the following:

(1) the FDIC's agent for service of process; or

(2) when authorized by the rules applicable to the particular legal proceeding, counsel for the FDIC or counsel for the FDIC director, officer, or employee in an official capacity.

(b) *Service on an FDIC director, officer, or employee in an individual capacity.* Any person or party desiring to properly initiate process upon an FDIC director, officer, or employee as a party for an act or omission occurring in connection with duties performed on the FDIC's behalf (whether or not the director, officer, or employee is also sued in an official capacity) must serve the United States and the director, officer, or employee in the manner specified by Rule 4(i) of the Federal Rules of Civil Procedure. A copy of such process must also be sent to the FDIC's agent for service of process.

■ 7. Revise part 309 to read as follows:

PART 309—DISCLOSURE OF INFORMATION

Sec.

Subpart A—General

309.1 Purpose and Scope.

Subpart B—Freedom of Information Act

- 309.10 Scope.
- 309.11 Definitions.
- 309.12 FDIC information that may be made available on request.
- 309.13 Making a request for records.
- 309.14 Processing requests—in general.
- 309.15 Processing requests—expedited processing.
- 309.16 Consultations and referrals.
- 309.17 Fees in general.
- 309.18 Types of fees.
- 309.19 Charging fees.
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Subpart C—Discretionary Disclosure of Confidential Information

- 309.30 Purpose and Scope.
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- 309.35 Standard for discretionary disclosure.
- 309.36 Disclosure by the FDIC.
- 309.37 Disclosure by insured depository institutions and certain other entities.
- 309.38 Disclosure by other persons.
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Subpart D—Disclosure of Confidential Information in Legal Proceedings in Which the FDIC Is Not a Party

- 309.50 Scope.
- 309.51 Definitions.
- 309.52 Use of FDIC information in a non-party legal proceeding.
- 309.53 Submitting a request.
- 309.54 Decisions on requests.
- 309.55 Waiver and exemption of requirement for requests.

Authority: 5 U.S.C. 552, 12 U.S.C. 1819 “Seventh and Tenth.”

Subpart A—General

§ 309.1 Purpose and Scope.

(a) *Scope.*

(1) This part sets forth the policies of the FDIC regarding information it maintains and the procedures for obtaining access to such information. Subpart B of this part contains regulations concerning the FDIC's implementation of the Freedom of Information Act, 5 U.S.C. 552. Subpart C of this part provides procedures for disclosure of confidential FDIC information in the discretion of authorized FDIC officials. Subpart D of this part provides procedures for requesting FDIC records or testimony of FDIC directors, officers, employees, or agents for use in legal proceedings in which the FDIC is not a party.

(2) This part does not include the FDIC's regulations concerning the Privacy Act of 1974, 5 U.S.C. 552a (Privacy Act) or the Government in the Sunshine Act, 5 U.S.C. 552b. FDIC regulations concerning the Privacy Act may be found at 12 CFR part 310. FDIC regulations concerning the Government in the Sunshine Act may be found at 12 CFR part 311.

(3) Requests made by an individual for records about that individual under the Privacy Act of 1974, 5 U.S.C. 552a, are processed in accordance with the FDIC's Privacy Act regulations, 12 CFR part 310, as well as under subpart B, C, or D of this part, as applicable.

(b) For purposes of this part, the term *FDIC* means the Federal Deposit Insurance Corporation in any capacity, including as receiver, as conservator, and in its corporate capacity.

Subpart B—Freedom of Information Act

§ 309.10 Scope.

This subpart contains the FDIC's published rules concerning the FDIC's

implementation of the Freedom of Information Act, 5 U.S.C. 552 (FOIA).

§ 309.11 Definitions.

For purposes of this subpart:

Commercial use request means a request that seeks information for a use or purpose that furthers commercial, trade, or profit interests of the requester or the person on whose behalf the request is made, which can include furthering those interests through litigation. In deciding whether to place a request in this category, the FDIC will make a determination on the requester's intended use of the records and seek additional information as it deems necessary.

Confidential commercial information means trade secrets and commercial or financial information obtained by the FDIC from a submitter that may contain material exempt from disclosure under Exemption 4 of the FOIA, 5 U.S.C. 552(b)(4).

Defective request means a request that does not reasonably describe the information requested or that does not otherwise comply with the requirements of this subpart, including those related to fees.

Direct costs means expenditures the FDIC incurs in searching for, duplicating, and, in the case of commercial requesters, reviewing records in response to a request for records.

Duplication means the process of making a copy of a record, or of information contained in the record, for purposes of responding to a request.

Educational institution means any school that operates a program of scholarly research. A requester in this category must show that the request is made in connection with the requester's role at an educational institution and that the records are not sought for a commercial use, but rather are sought to further scholarly research.

FOIA public liaison means the FDIC official responsible for assisting requesters by explaining the FOIA process, providing information on the status of requests, and resolving any disputes. Contact information for the FDIC FOIA public liaison is available on the FDIC's website located at: <https://www.fdic.gov>.

Non-commercial scientific institution means an institution that is not operated on a “commercial” basis as that term is used in paragraph (b) of this section, and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. A requester in this category must show that the request is

authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use, but rather are sought to further scientific research.

Representative of the news media means any person or entity that gathers information about current events or of potential current interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.

Review means the examination of a record located in response to a request to determine whether any portion of it is exempt from disclosure. Review includes processing any record for disclosure, such as doing all that is necessary to prepare the record for disclosure, including redacting the record and marking the appropriate exemptions. Review also includes both obtaining and considering any formal objection to disclosure made by a confidential commercial information submitter under 12 CFR 309.24.

Search means the process of locating and retrieving records responsive to a request. Search includes all time spent by FDIC staff conducting a search.

Submitter means any person or entity that provides confidential commercial information to the FDIC. The term “submitter” includes, but is not limited to, corporations, state governments, and foreign governments.

§ 309.12 FDIC information that may be made available on request.

(a) In general.

(1) Any person may make a request to the FDIC pursuant to FOIA for any FDIC record. Requests for information under FOIA are submitted to and processed by the FDIC's Freedom of Information Act/Privacy Act Group (FOIA/PA Group).

(2) The FDIC's time to respond to a request begins when the FDIC receives a request that satisfies the requirements of this subpart. The FDIC will conduct a search of records that are in existence as of the date the search begins, and any responsive records that are located will be reviewed to determine if the records may be disclosed or withheld under one or more FOIA exemptions, 5 U.S.C. 552(b).

(3) If all or part of the request is granted, the FDIC will provide copies of the requested records. The FDIC may charge fees for searching for responsive records, reviewing records, and duplicating records to provide to a requester.

(4) If a request for records is denied in full or in part, the FDIC will notify the requester of the FDIC's decision, the reasons for the decision, the right of the

requester to appeal the denial, and how to seek assistance from the FDIC's FOIA public liaison and the Office of Government Information Services of the National Archives and Records Administration (OGIS).

§ 309.13 Making a request for records.

(a) *Where to send a request.* All requests for records must be submitted in writing to the FOIA/PA Group. A request may be made by:

(1) completing the online request form in the FDIC's Freedom of Information Act Service Center (“FOIA Service Center”) portal found at <https://www.fdic.gov>;

(2) completing the online request form located on the U.S. government central portal for FOIA requests at www.FOIA.gov;

(3) sending an email to the FDIC at efoia@fdic.gov, clearly marked “Freedom of Information Act request” or “FOIA request”; or

(4) sending a letter to: Legal Division, FDIC, ATTN: FOIA/PA Group, 550 17th Street NW, Washington, DC 20429.

(b) *Contents of a request—administrative information.* The request must contain the following information:

(1) The name and street address of the requester, an email address, if available, and the telephone number at which the requester may be reached during normal business hours;

(2) Whether the requester is an educational institution, non-commercial scientific institution, or a representative of the news media and, as applicable, the content requirements provided in the definitions of the terms “educational institution” and “non-commercial scientific institution” in § 309.11; and

(3) A statement identifying a maximum fee, if any, that is acceptable to the requester, or a request for a waiver or reduction of fees that satisfies § 309.21.

(c) *Contents of a request—description of records sought.* A request for records must describe the records in a way that enables FDIC staff to identify and produce the records with reasonable effort and without unduly burdening the FDIC or significantly interfering with the operation of the FDIC's automated information systems.

(1) Requesters should include details about the specific records or the types of records that the requesters are seeking, such as the date, title or name of the record; author of the record; recipient of the record; name and location of the financial institution to which the record pertains, if applicable; and subject matter of the record so that the FDIC can locate the records with a reasonable amount of effort.

(2) Requests that lack specific information about the records sought, contain very general topics, do not include date ranges, or have no limitations (such as seeking “any” or “all” records) are likely to be considered “defective requests,” as defined in § 309.11. Upon receipt of a defective request, the FDIC shall inform the requester what additional information is needed or why the request is otherwise insufficient.

(d) *Contents of a request—records about the requester.* An individual requesting records pertaining to themselves must comply with the verification of identity provisions set forth in 12 CFR 310.4(c).

(e) *Contents of a request—records about third parties.*

(1) Where a request for records pertains to a third party, a requester may receive greater access by submitting a written authorization signed by the individual who is the subject of the record. The written authorization should be notarized, or should be in the form of a declaration made in compliance with 28 U.S.C. 1746.

(2) When the records concern a deceased individual, a requester must submit proof that the individual is deceased (e.g., a copy of a death certificate or an obituary). The FDIC may require a requester to supply additional information or documentation, if necessary, for verification purposes.

§ 309.14 Processing requests—in general.

(a) *Receipt of requests.* Upon receipt of a request, the FOIA/PA Group will acknowledge receipt of the request in writing to the requester and provide the requester with an individualized tracking number for the request and the telephone number to obtain information about the status of request.

(b) *Multitrack processing.* The FDIC places FOIA requests in simple or complex queues.

(1) In making the determination as to whether a request will be placed in the complex processing queue, the FDIC will consider whether it will need to:

(A) search for and collect records from one or more divisions or offices outside of the FOIA/PA Group;

(B) search for, collect, and review a voluminous number of records that are part of a single request; or

(C) consult with another Federal agency before releasing records.

(2) Most other requests will be placed in the simple processing queue.

(3) Requesters may seek expedited processing under § 309.15.

(c) *Priority of processing.* The FDIC processes requests in the order the

requests are received in the separate processing tracks. However, in the FDIC's discretion, or upon receipt of an order issued by a court, tribunal, or other forum having compulsory jurisdiction over the FDIC, a particular request may be processed out of turn.

(d) *Status of a request.* A requester may check on the status of a request using the tracking number assigned to obtain information including the date of the FDIC's receipt and an estimated date for a response. The status of a request may be obtained online at the FDIC's FOIA Service Center, at <https://www.fdic.gov>, if the request was submitted electronically using the FDIC's online FOIA request portal, by calling the FDIC's FOIA Service Center at (202) 898-7021, by email at efoia@fdic.gov, or by regular mail.

(e) *Statutory time period for processing.* The time for response to requests is twenty business days after the date of receipt of the request by the FOIA/PA Group. The date of receipt for such request, including one that is addressed incorrectly or that is referred by another agency, is the date the FOIA/PA Group actually receives the request.

(f) *Extension of time in unusual circumstances.*

(1) Whenever the statutory time limits for processing a request cannot be met because of unusual circumstances, as defined in 5 U.S.C. 552(a)(6)(B), the FDIC will, before the expiration of the twenty-day period to respond, notify the requester in writing of the unusual circumstances involved and of the date by which processing of the request can be expected to be completed.

(2) If this extension exceeds ten working days, the FDIC will, as described by the FOIA, provide the requester with an opportunity to modify the request or agree to an alternative time period for processing the original or modified request.

(3) The FDIC will make available its FOIA Public Liaison to assist in the resolution of any disputes with the requester, and will also notify the requester of the right to seek dispute resolution services from the OGIS.

(g) *Aggregation of requests.* The FDIC may aggregate requests in cases where it reasonably believes that multiple requests, submitted by the same requester or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances and involve clearly related matters.

§ 309.15 Processing requests—expedited processing.

(a) *Processing requests on an expedited basis.* A request will be

processed on an expedited basis only when the FDIC determines that the request involves:

(1) circumstances in which the lack of expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(2) an urgency to inform the public about an actual or alleged Federal Government activity, if made by a person who is primarily engaged in disseminating information;

(3) the loss of substantial due process rights; or

(4) a matter of widespread and exceptional media interest in which there exists possible questions about the Federal Government's integrity which affect public confidence.

(b) *Making a request for expedited processing.* A request for expedited processing must be made at the time the initial request for one or more records is made, and must include a statement certified to be true and correct, explaining in detail the basis for making the request for expedited processing, consistent with the considerations set forth in § 309.15(a).

(c) *Notice of determination of request for expedited processing.* A requester seeking expedited processing will be notified whether expedited processing has been granted or denied within ten calendar days of the receipt of the request by the FOIA/PA Group. If the request for expedited processing is denied, the requester may file an appeal pursuant to the procedures set forth in § 309.23.

§ 309.16 Consultations and referrals.

(a) *In general.* If the FDIC determines that another agency of the Federal Government is subject to the FOIA and is in a better position to process records responsive to a request, then it will either:

(1) consult with the agency that has a substantial interest in the responsive records before responding to the request; or

(2) refer the responsive records to the agency that created or initially acquired the records. Whenever the FDIC refers any part of the responsibility for responding to a request to another agency, it will notify the requester of the referral and inform the requester of the name of each agency to which the records were referred, unless such disclosure, in itself, would be exempt from disclosure.

(b) *Timing of responses to consultations and referrals.* All consultations and referrals received by the FDIC will be handled according to

the date that the first agency received the perfected FOIA request.

(c) *Agreements regarding consultations and referrals.* The FDIC may establish agreements with other agencies to eliminate the need for consultations or referrals with respect to particular types of records.

§ 309.17 Fees in general.

(a) *Fee schedule.* The FDIC's Records Fee Schedule is available at <https://www.fdic.gov/foia/fees>. The Fee Schedule should be read in conjunction with the text of the FOIA and the Uniform Freedom of Information Fee Schedule and Guidelines published by the Office of Management and Budget. The FDIC may charge the full allowable direct costs it incurs. In order to resolve any fee issues that arise under this subpart, the FDIC may contact a requester for additional information. The FDIC shall ensure that searches, review, and duplication are conducted in the most efficient and the least expensive manner.

(b) *Fees by category of requester.*

(1) Commercial use requesters will be charged search, duplication and review costs.

(2) Educational institutions, non-commercial scientific institutions and any representative of the news media will be charged duplication costs beyond the first 100 pages.

(3) All other requesters will be charged the full reasonable direct cost of search and duplication, except for the first two hours of search time and the first 100 pages of duplication.

§ 309.18 Types of fees.

(a) *Search fees.* Search fees will be charged to any requester who is not an educational institution, a non-commercial scientific institution, or a representative of the news media. The FDIC will charge for manual searches for records at the hourly labor rates set forth in the FDIC's Records Fee Schedule. The fee for a search of electronic records will be the actual direct cost of the search, including computer search time and the time spent by the operator in conducting the search. Search costs are assessed even if responsive records are not located or are determined to be exempt from disclosure.

(b) *Review fees.* The FDIC will charge commercial use requesters for the review of records at the hourly labor rates set forth in the FDIC's Records Fee Schedule. The FDIC will not charge at the administrative appeal level for review of an exemption already applied. Requesters will be charged for review costs even if responsive records are

determined to be exempt from disclosure.

(c) *Duplication fees.* The FDIC will charge for paper copies of records on a per-page basis at the rate set forth in the FDIC's Records Fee Schedule. If paper documents must be scanned in order to comply with a requester's preference to receive the records in an electronic format, the requester will pay the direct costs associated with scanning those documents. For methods of duplication other than paper copies, the FDIC will charge the actual direct costs of duplicating the documents, including the operator's time at the hourly labor rates set forth in the FDIC's Records Fee Schedule.

§ 309.19 Charging fees.

(a) *Multiple requests.* Multiple requests from the same requester or group of requesters seeking similar or related records will be aggregated for the purposes of charging fees.

(b) *Estimated fees.* If the FDIC determines that the estimated fees for search, duplication, or review of requested records will exceed the dollar amount specified in the request, or if no dollar amount is specified, the FDIC will advise the requester of the estimated fees. The time for the processing of the request will be tolled when the FDIC notifies the requester of the estimated fees. The requester will then be given the opportunity to agree to pay the estimated amount or modify the request. Upon receipt of the requester's response, the FDIC's time to respond will resume. If the FDIC does not receive a response from the requester within thirty calendar days, the request will be closed.

(c) *Advance payments.*

(1) If the FDIC determines that the estimated fees for search, duplication, and review will exceed \$250.00, the FDIC will advise the requester that the requester must pay an amount equal to 20 percent of the estimated fees before the FDIC will continue processing the request. The time for the processing of the request will be tolled when the FDIC notifies the requester of the amount due. The requester will then be given the opportunity to pay the amount due. Upon receipt of the requester's payment, the FDIC's time to respond will resume.

(2) Where a requester previously failed to pay a properly charged FOIA fee within 30 calendar days of the billing date, the FDIC may require that the requester pay the full amount due, plus any applicable interest on that prior request, and may require that the requester make an advance payment of the full amount of any anticipated fee before beginning to process a new

request or continuing to process a pending request or any pending appeal.

(d) *Restrictions on charging fees.*

(1) No search fees will be charged for requests by educational institutions, noncommercial scientific institutions, or representatives of the news media, unless the records are sought for a commercial use.

(2) If the FDIC fails to comply with the FOIA's time limits in which to respond to a request, it may not charge search fees, or for requests from requesters described in paragraph (d)(1) of this section, it may not charge duplication fees, except as described in paragraphs (d)(3) through (5) of this section.

(3) If the FDIC determines that unusual circumstances exist, as defined by the FOIA and § 309.14(f), and provides timely written notice to the requester in accordance with the FOIA, a failure to comply with the time limit shall be excused for an additional 10 days.

(4) If the FDIC determines that unusual circumstances as defined by the FOIA and § 309.14(f) apply, and more than 5,000 pages are necessary to respond to the request, the FDIC may charge search fees, or, in the case of requesters described in paragraph (d)(1) of this section, may charge duplication fees if the FDIC has:

(i) Provided timely written notice of unusual circumstances to the requester in accordance with the FOIA and § 309.14(d); and

(ii) Discussed with the requester via written mail, email, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5 U.S.C. 552(a)(6)(B)(ii). If this exception is satisfied, the FDIC may charge all applicable fees incurred in the processing of the request.

(5) If a court has determined that exceptional circumstances exist, as defined by the FOIA and § 309.14(f), a failure to comply with the time limits shall be excused for the length of time provided by the court order.

(6) Except for requesters seeking records for a commercial use, the FDIC shall provide without charge:

(i) The first 100 pages of duplication (or the cost equivalent for other media); and

(ii) The first two hours of search.

(7) No fee will be charged when the total fee, after deducting the 100 free pages (or its cost equivalent) and the first two hours of search, is equal to or less than \$25.

§ 309.20 Payment of fees.

(a) *Payment prior to release of records.* The FDIC reserves the right to collect all applicable fees before releasing copies of requested records to the requester.

(b) *Payment prior to processing.* At its election, the FDIC may require payment in full of any amounts outstanding, plus interest, or advance payment of the full amount of any estimated fee, before the FDIC begins to process a new request or new appeal. The FDIC may also require a requester to demonstrate that any previously invoiced fees have been paid in full, before any further processing of a request occurs. If the FDIC requires advance payment, the request will not be considered received until the required payment is received. If an advance payment is not received within thirty calendar days of a demand for payment, the request will be closed.

(c) *Interest on unpaid fees.* Interest charges on unpaid fees will begin to accrue on the 31st day following the day on which the invoice was sent, at the rate prescribed in 31 U.S.C. 3717.

§ 309.21 Waiver or reduction of fees.

(a) *Request for waiver or reduction of fees.* A requester may request that the FDIC waive or reduce fees if disclosure of the records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(b) *Public interest.* In deciding whether disclosure of the requested records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, the FDIC will consider the following factors:

(1) The subject of the request must concern identifiable operations or activities of the government.

(2) Disclosure of the requested information would be likely to contribute significantly to public understanding of those operations or activities. This factor is satisfied if the disclosure of the requested records would: be meaningfully informative about government operations or activities and would contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. The FDIC will presume that a request from a representative of the news media will satisfy the latter consideration.

(3) The disclosure must not be primarily in the commercial interest of the requester. To determine whether disclosure of the requested information

is primarily in the commercial interest of the requester, the FDIC will consider whether the requester has any commercial, trade, or profit interest that would be furthered by the requested disclosure. Requesters will be given an opportunity to explain why a requested disclosure of records is not primarily in the requester's commercial interest. The FDIC ordinarily will presume that when a news media requester has satisfied the factors listed in this paragraph, the request is not primarily in the commercial interest of the requester. Disclosure to data brokers or others that merely compile and market government information for direct economic return, however, will not be presumed to primarily serve the public interest.

§ 309.22 Dispute resolution.

A requester seeking to engage in dispute resolution, may make a request to the FOIA public liaison and/or the OGIS by following the procedures set forth online in the FDIC's FOIA Service Center at <https://www.fdic.gov>. Dispute resolution is a voluntary process.

§ 309.23 Administrative appeals.

(a) *Basis for an appeal.* A person who has received an adverse determination on a FOIA request has the right to appeal the denial to the FDIC general counsel or designee. For purposes of this section, an adverse determination includes a determination that:

- (1) the requested records cannot be located;
- (2) the requested records have been withheld in whole or in part;
- (3) a request for expedited processing has been denied; or
- (4) a request for a waiver or reduction of fees has been denied in whole or in part.

(b) Submitting an appeal.

(1) *Form.* An appeal of the adverse determination must be submitted in writing or electronically. Appeals submitted in writing must be submitted by mail addressed to the FOIA/PA Group, Legal Division, FDIC, 550 17th Street NW, Washington, DC 20429. Appeals submitted electronically must be by email clearly marked "Freedom of Information Act Appeal" or "FOIA Appeal," to efoia@fdic.gov; submitted through the FDIC's FOIA request portal.

(2) *Content.* The appeal must include any information relevant to the consideration of the appeal and must clearly identify the adverse determination that is being appealed and the request number.

(3) *Timing.* Appeals must be received within ninety calendar days of the adverse determination. Appeals submitted in writing must be

postmarked within ninety calendar days after the date of the response of the adverse determination to be considered timely. Any appeal that has not been submitted electronically or postmarked within the specified timeframe will be considered untimely and will be closed administratively with notice to the requester.

(4) *Outstanding fees.* Complete payment of any outstanding fee invoice will be required before an appeal is processed.

(c) *Time period for response.* Except as provided in 309.23(c)(1) and (2), below, the FDIC will notify the appellant of the appeal determination within twenty business days after the date of receipt of the appeal. Notification of the appeal determination shall be in writing.

(1) This time period may be extended in the event of unusual circumstances as defined in 5 U.S.C. 552(a)(6)(B).

(2) If a requester is appealing an adverse determination involving the denial of expedited treatment under § 309.15, the FDIC will determine the appeal and notify the appellant of the appeal determination as soon as practicable.

(d) Appeal determinations.

(1) Where an appeal is granted in whole or in part, the FDIC will then further process the request in accordance with that appeal determination and will notify the requester of the determination on appeal.

(2) An appeal determination that upholds the FDIC's initial response to a FOIA request in whole or in part will: (i) contain a statement that identifies the reasons for the appeal determination, including any FOIA exemptions applied; (ii) contain a notification of the requester's statutory right to file a lawsuit; and (iii) inform the requester of the dispute resolution services offered by the OGIS as a non-exclusive alternative to litigation.

(e) *Litigation.* Before seeking judicial review of an adverse determination by the FDIC, a requester must first exhaust administrative remedies by submitting a timely administrative appeal and allowing the FDIC to determine the appeal within the statutory time period.

§ 309.24 Supplemental procedures for confidential commercial information.

(a) *Designation of confidential commercial information.* At the time of submission to the FDIC, a submitter of confidential commercial information ("submitter") must use good faith efforts to designate by appropriate markings any portion of its submission that it considers to be protected from

disclosure under Exemption 4 of FOIA (5 U.S.C. 552(b)(4)), which protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. These designations expire 10 years after the date of the submission unless the submitter requests and provides justification for a longer designation period.

(b) *Notice to submitter.* Whenever records containing confidential commercial information are requested from the FDIC under FOIA, the FDIC will determine whether it may be required to disclose the records under FOIA. If the FDIC determines that disclosure may be required, the FDIC will provide prompt written notice to the submitter of the confidential commercial information requested (notice to submitter), provided:

(1) The submitter in good faith designated the information as protected from disclosure under Exemption 4; or

(2) The FDIC has a reason to believe that the requested information may be protected from disclosure under Exemption 4, but has not yet determined whether the information is protected from disclosure.

(c) Contents of a notice to submitter.

(1) The notice to submitter must either describe the confidential commercial information requested or include a copy of the requested records or portions of records containing the information.

(2) In cases involving a voluminous number of submitters, the FDIC may post or publish a notice to submitter in a place or manner reasonably likely to inform the submitters of the proposed disclosure, instead of sending individual notifications.

(3) The notice to submitter must provide a reasonable time period in which a submitter must respond to the FDIC as provided in paragraph (e) of this section.

(d) Exceptions to notice to submitter requirement.

(1) The notice to submitter requirements of this section do not apply if:

(i) The FDIC determines that the information is exempt under the FOIA, and therefore will not be disclosed;

(ii) The information has been lawfully published or has been officially made available to the public;

(iii) Disclosure of the information is required by a statute other than the FOIA or by a regulation issued in accordance with the requirements of Executive Order 12,600 of June 23, 1987; or

(iv) The designation made by the submitter under paragraph (a) of this section is frivolous.

(e) *Opportunity to object to disclosure.*

(1) The submitter must respond to the notice to submitter referenced in paragraph (b) within the time period specified in the notice to submitter.

(2) If a submitter has any objections to disclosure, it should provide the FDIC a detailed written statement that specifies all grounds for withholding the particular information under any exemption of the FOIA. To rely on Exemption 4 as a basis for nondisclosure, the submitter must explain why the information constitutes a trade secret or commercial or financial information that is customarily and actually treated as confidential by the submitter of the information. Any information provided by a submitter under this paragraph may itself be subject to disclosure under the FOIA.

(3) A submitter who fails to respond within the time period specified in the notice to submitter will be considered to have no objection to disclosure of the information. The FDIC is not required to consider any information received after the time period specified in the notice to submitter.

(f) *Notice of intent to disclose.*

Whenever the FDIC decides to disclose information over the objection of a submitter, the FDIC will provide the submitter written notice of intent to disclose (notice of intent), which will include:

(1) A statement of the reasons why each of the submitter's disclosure objections was not sustained;

(2) A description of the information to be disclosed or copies of the records in the form that they would be provided to the requester; and

(3) A specified disclosure date, which will be a reasonable time after the notice.

(g) *Notice of FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of confidential commercial information, the FDIC will promptly notify the submitter.

(h) *Requester notification.* The FDIC will notify the requester whenever it provides the submitter with a notice to submitter or notice of intent and whenever a submitter files a lawsuit to prevent the disclosure of the information.

Subpart C—Discretionary Disclosure of Confidential Information

§ 309.30 Purpose and scope.

(a) This subpart describes categories of information that the FDIC is authorized by law to maintain as

confidential. (See the full definition of confidential information at § 309.31 below.) In the discretion of the FDIC and subject to any conditions and limitations that the FDIC may require, such confidential information may be disclosed to other agencies, entities, or individuals that have shown good cause for the disclosure. This subpart describes the procedures, conditions, and limitations applicable to such disclosures.

(b) This subpart does not apply to disclosure of FDIC records or information:

(1) when disclosure is required under the Freedom of Information Act (*see* subpart B of this part), including proactive publication or public availability under 5 U.S.C. 552(a), or when disclosure is required by other law;

(2) subject to the Privacy Act of 1974, 5 U.S.C. 552a (*see* 12 CFR part 310);

(3) subject to the Government in the Sunshine Act, 5 U.S.C. 552b (*see* 12 CFR part 311);

(4) for use in a legal proceeding (as defined in subpart D of this part); or

(5) when disclosure is prohibited by law.

(c) *Applicability of the Right to Financial Privacy Act.* This subpart does not authorize disclosure of copies of the financial records of any customer, as defined in the Right to Financial Privacy Act, 12 U.S.C. 3401 *et seq.*, of a financial institution, or the information contained in such financial records, except in accordance with the provisions of said Act.

§ 309.31 Definitions.

Affiliate means any company that controls, is controlled by, or is under common control with another company as defined in 12 U.S.C. 1841(k). Control for purposes of this subpart is defined in 12 U.S.C. 1841(a)(2).

Authorized director means any of the directors of FDIC divisions and offices, or their designees, who have primary responsibility for FDIC records or information; and deputies to the chairperson of the FDIC Board of Directors, to the extent such officials have primary responsibility for FDIC records or information.

Confidential information means any FDIC record or other FDIC information in any form that is exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552, and any information derived from or related to such FDIC record or information.

Confidential information includes but is not limited to information about FDIC's supervision or resolution of depository institutions and financial companies;

information about FDIC's enforcement of laws and regulations; and information about consumer complaints received by the FDIC. Confidential information does not include:

(1) Documents prepared by or for an insured depository institution, or any other party, for its own business purposes that are in its own possession, even though copies of such documents in the FDIC's possession otherwise would constitute confidential information; or

(2) Final orders, amendments, or modifications of final orders, or other actions or documents that are specifically required to be published or made available to the public pursuant to 12 U.S.C. 1818(u), the Community Reinvestment Act, or other applicable law.

Parent holding company means a company that has control of an insured depository institution. Control for purposes of this subpart is defined in 12 U.S.C. 1841(a)(2).

Person means an individual, or an entity in any form, including a government agency.

Qualifying confidentiality agreement means an agreement that:

(1) Is written;

(2) Is governed by the laws of the United States or a State of the United States;

(3) Prohibits the use of the information by the recipient for purposes other than that for which it is provided and provides that the recipient will not further disclose or make public in any manner the information;

(4) Limits access to the information at a recipient entity to those directors, officers, or employees who have a business need to know the information and are bound by the qualifying confidentiality agreement; and

(5) Expressly provides that the FDIC is an intended third-party beneficiary of the agreement and is permitted to enforce the terms of the agreement through a civil action filed in the U.S. District Court for the District of Columbia and any other court having jurisdiction and venue over disputes arising from the agreement.

Qualifying service provider means an entity that:

(1) has a contractual relationship with a depository institution and

(2) provides:

(i) products or services to the institution that are used in connection with the provision of financial products or services to the depository institution's customers;

(ii) advisory or consulting services related to the management or operations of the depository institution; or

(iii) technological infrastructure to the depository institution.

§ 309.32 Disclosure prohibited.

(a) *In general.* Except as provided in this part or as otherwise required by law, no person may disclose or permit the disclosure of confidential information to any person other than those directors, officers, employees, or agents of the FDIC who have a bona fide need for such information in the performance of their official duties.

(b) *Confidential information held by others.* Any confidential information in the possession, custody, or control of any person remains the property of the FDIC and may not be disclosed except as provided in this part.

§ 309.33 Disclosure authorized; limitations.

(a) *In general.* Confidential information may be disclosed only in accordance with the requirements of and subject to the conditions set forth in this part.

(b) *Discretion of authorized director.* Disclosure under this subpart is discretionary. Nothing in this subpart shall be construed as:

- (1) requiring the disclosure of confidential information; or
- (2) restricting in any manner the authority of the chairperson of the FDIC, or the authorized director, to deny or limit the form, manner, and extent of any disclosure of confidential information.

§ 309.34 Procedure for requesting discretionary disclosure.

(a) *Form of requests.* Requests for discretionary disclosure of confidential information must be submitted to the FDIC by one of the methods listed in (b) below. A request must:

- (1) be in writing;
- (2) indicate that it seeks discretionary disclosure of confidential information;
- (3) identify the information sought with reasonable particularity; and
- (4) provide sufficient information for the FDIC to evaluate whether there is good cause for disclosure under § 309.35.

(b) *Where to submit requests for discretionary disclosure.* Requests must be submitted by:

- (1) email, U.S. Mail, or equivalent service to the address provided in the FDIC organizational directory on the FDIC's official website at <https://www.fdic.gov/contact>; or
 - (2) using the online request form on the web page of the FDIC Information and Support Center, <https://ask.fdic.gov>.
- (c) *Procedural waiver.* An authorized director may, in the authorized

director's sole discretion, waive any one or more of the requirements in paragraphs (a) or (b) of this section.

(d) *Disclosure without a request.* An authorized director may disclose confidential information on the authorized director's own initiative and without a request, provided that the good cause requirement of § 309.35 is satisfied.

§ 309.35 Standard for discretionary disclosure.

(a) *Good cause standard.* An authorized director may disclose or authorize disclosure of confidential information when, in the authorized director's sole discretion, there is good cause for disclosure. Pursuant to § 309.39, the authorized director may require such other terms and conditions in writing in connection with and for purposes of the disclosure as the authorized director deems appropriate.

(b) *Good cause considerations.* An authorized director may consider the following, among other factors, when making a good cause determination:

- (1) Whether disclosure will serve a legitimate regulatory, supervisory, resolution, or law enforcement purpose;
- (2) Whether there is another source for the confidential information;
- (3) Whether disclosure of the confidential information is unduly burdensome or otherwise may adversely affect or prejudice the FDIC, its mission, or its operations;
- (4) The scope and nature of the confidential information;
- (5) The recipient's intended use of the confidential information;
- (6) Whether disclosure is lawful;
- (7) Whether the confidential information includes privileged information, trade secrets, or confidential commercial or financial information; and
- (8) Whether disclosure would present safety and soundness or financial stability risks.

§ 309.36 Disclosure by the FDIC.

(a) *Disclosure to insured depository institutions.* The authorized director may, for good cause and subject to § 309.39, disclose confidential information concerning an insured depository institution to the directors, officers, and employees of that insured depository institution.

(b) *Disclosure to affiliates of insured depository institutions.* The authorized director may, for good cause and subject to § 309.39, disclose confidential information concerning an insured depository institution to the affiliate(s) of an insured depository institution.

(c) *Disclosure to federal and state agencies.* The authorized director may,

for good cause and subject to § 309.39, disclose confidential information to federal and state agencies.

(d) *Disclosure to foreign financial authorities.* The authorized director may, for good cause and subject to § 309.39, disclose confidential information to any foreign financial regulatory or supervisory authority as provided, and to the extent permitted, by section 206 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 3109) and 12 CFR 347.207.

(e) *Disclosure to civil investigatory agencies or authorities.* The authorized director may, for good cause and subject to § 309.39, disclose to a federal or state civil investigatory authority, or to any authorized officer or employee of such authority, confidential information relating to actual or potential violations of any federal or state civil law, unsafe or unsound banking practices, or breach of fiduciary duty.

(f) *Disclosure to criminal law enforcement agencies or authorities.* The authorized director may, for good cause and subject to § 309.39, disclose to any federal or state criminal law enforcement authority, or to any authorized officer or employee of such authority, confidential information relating to actual or potential violations of criminal law.

(g) *Disclosures related to service providers subject to FDIC examination.* The authorized director may, for good cause and subject to § 309.39, disclose confidential information to:

- (1) a service provider that is subject to examination by the FDIC;
- (2) Any insured depository institution or credit union that receives services from such a service provider;
- (3) Any state agency or authority that exercises supervision over a financial institution serviced by such a service provider; and
- (4) Any federal financial institution supervisory agency that exercises supervision over a financial institution serviced by such a service provider.

The federal financial institution supervisory agency may disclose any such confidential information received from the FDIC to an insured depository institution or credit union over which it exercises general supervision, and which is serviced by that service provider.

(h) *Disclosure to other persons.* The authorized director may, for good cause and subject to § 309.39, disclose confidential information to any person not covered by paragraphs (a) through (g).

(i) *Authorization for disclosure by the FDIC chairperson.* The chairperson of

the FDIC Board of Directors may, for good cause and subject to § 309.39, disclose or authorize disclosure of any confidential information.

§ 309.37 Disclosure by insured depository institutions and certain other entities.

(a) *Disclosure by insured depository institutions.*

(1) An insured depository institution may disclose confidential information to the following persons where necessary or appropriate for business purposes:

- (i) The insured depository institution's own directors, officers, or employees;
- (ii) Affiliates of the insured depository institution and the directors, officers, or employees of the insured depository institution's affiliates;
- (iii) The insured depository institution's external legal counsel, accountant, or auditor;

(iv) A shareholder that owns in excess of 50 percent of the voting stock of the insured depository institution;

(v) A qualifying service provider to the insured depository institution;

(vi) An individual to whom an offer of employment has been made for that individual to serve as a senior executive officer, as defined in 12 CFR 303.101, of the insured depository institution; or

(vii) Directors, officers, employees, affiliates (including directors, officers, and employees of affiliates), auditors, and legal counsel of an insured depository institution that is a potential counterparty with which the insured depository institution is contemplating a merger or other transaction subject to 12 U.S.C. 1817(j), 1842, 1828(c), or 1467a. Such authorization is limited to three potential counterparties over a five-year period and the information disclosed must not be otherwise available in the course of due diligence nor used as a substitute for a counterparty's due diligence.

(A) Notwithstanding the numerical limitations set forth in 12 CFR 309.37(a)(1)(vii), an insured depository institution may disclose confidential information to directors, officers, employees, affiliates, auditors, and legal counsel of a potential counterparty with which it has a written agreement to enter into a merger or other transaction subject to 12 U.S.C. 1817(j), 1842, 1828(c), or 1467a.

(B) Any disclosures made under this paragraph (a)(vii) must be limited to directors, officers, employees and legal counsel with a need to know the confidential information for the purposes of performing their own reasonable due diligence or other duties related to the transaction or series of transactions.

(C) The FDIC must receive a written waiver from the potential counterparty, and any affiliate of the potential counterparty to which confidential information has been disclosed under this paragraph (a)(vii), of any and all potential claims the potential counterparty or any such affiliate of the potential counterparty may have against the FDIC arising from the confidential information, including the accuracy and completeness thereof.

(2) Prior to or concurrently with any disclosure under 309.37(a)(1)(iii) through (vii), the insured depository institution must enter into a qualifying confidentiality agreement with the intended recipient of the information.

(b) *Disclosure by insured depository institutions of confidential information created over twenty-five years ago.* Unless otherwise notified by an authorized director, an insured depository institution may disclose confidential information if at least 25 years have elapsed since that confidential information was created or last modified and such disclosure does not include information otherwise subject to other disclosure restrictions, such as consumer privacy or trade secret laws.

(c) *Disclosure by parent holding companies.* A parent holding company of an insured depository institution lawfully in possession of confidential information may disclose such information to the same extent and subject to the same conditions, and to the same categories of recipients for the parent holding company, to which an insured depository institution could disclose confidential information under § 309.37(a) or 309.37(b).

(d) *Disclosure by insured depository institutions and parent holding companies to other persons.* The authorized director may, for good cause and subject to § 309.39, authorize an insured depository institution or a parent holding company to disclose confidential information to any person not covered by paragraphs (a) through (c).

(e) *Disclosure by service providers to insured depository institutions partners.* A service provider subject to examination by the FDIC and in possession of confidential information may share such confidential information with an insured depository institution to which they are providing services provided that:

- (1) any such disclosure must be necessary or appropriate to meet a business purpose;
- (2) prior to or concurrently with any disclosure under this paragraph (e), the service provider must enter into a

qualifying confidentiality agreement with the intended recipient of the information.

§ 309.38 Disclosure by other persons.

The authorized director may, for good cause and subject to § 309.39, authorize any person that has received confidential information, including a federal or state agency, to disclose such confidential information to another person.

§ 309.39 Conditions and limitations.

(a) *Limitations on disclosure.* Prior to any disclosure, the authorized director may require such other terms and conditions in writing as the authorized director deems necessary, including those necessary to protect the confidential nature of the information, the financial integrity of any depository institution to which the information relates, the legitimate privacy interests of any individual named in such information, and any other interests that could be affected by the disclosure.

(b) *Disclosure of confidential information not intended as waiver.* The disclosure of any confidential information pursuant to this subpart is not, unless otherwise stated, intended to waive or otherwise affect any privilege or protection the FDIC may claim with respect to such confidential information under applicable law.

(c) *Revocation of authorization.* An authorized director or FDIC chairperson may, in their sole discretion, revoke their authorization to disclose confidential information. As soon as practicable, a person in possession of confidential information for which authorization has been revoked must destroy or return the confidential information to the FDIC.

Subpart D—Disclosure of Confidential Information in Legal Proceedings in Which the FDIC Is Not a Party

§ 309.50 Scope.

(a) *In general.* The FDIC by statute acts in separate legal capacities, including as receiver or conservator for a depository institution or financial company, and as supervisor or insurer of deposits for depository institutions. The FDIC may be a party in a legal proceeding in one capacity but not a party to that legal proceeding in a separate capacity.

(b) *Applicability of this subpart.* This subpart applies to requests and discovery demands for FDIC information for use in a legal proceeding in which neither the FDIC (in the capacity to which the request or discovery demand is directed) nor an

FDIC director, officer, or employee (in the capacity to which the request or discovery demand is directed) is a party.

(c) *Does not apply to FDIC as a party to a legal proceeding.* This subpart does not apply to:

(1) Requests or discovery demands directed to the FDIC in a capacity in which the FDIC is a party to the legal proceeding;

(2) Requests or discovery demands directed to an FDIC director, officer, or employee who is a party to the legal proceeding.

(d) *Does not apply to matters outside a legal proceeding.* This Subpart D does not apply to:

(1) Requests seeking FDIC information under other statutory or regulatory processes, including, but not limited to, the Freedom of Information Act (FOIA), 5 U.S.C. 552 and subpart B of this part; the Privacy Act, 5 U.S.C. 552a and 12 CFR part 310; and public access to applications, notices, and other filings under 12 CFR 303.8.

(2) Requests seeking discretionary disclosure of confidential information of the FDIC pursuant to subpart C of this part.

(3) Requests seeking FDIC information made by persons who are not parties to or otherwise substantially involved with a legal proceeding.

§ 309.51 Definitions.

Access to FDIC documents or property means to produce, provide, or allow examination of FDIC documents or property.

Discovery demand means a subpoena, court order, request for production of documents, interrogatories, notice of deposition, motion to compel, or other notice or order in a legal proceeding requiring the FDIC or any other person in possession, custody, or control of FDIC information to provide FDIC information for use or possible use in the legal proceeding.

FDIC documents or property means documents, electronically stored information, tangible things, and premises that are owned by or were created by the FDIC except documents or property of a depository institution or financial company in FDIC receivership or conservatorship that the FDIC has transferred to the custody of a contractor, servicer, acquiring institution, bridge bank or other successor institution, or other third party in the course of the FDIC's depository institution or financial company resolution activities.

FDIC information means any FDIC documents, property, or FDIC testimony.

FDIC testimony means testimony by a current or former director, officer, employee, agent, or contractor of the FDIC concerning:

(1) FDIC documents or property; or
(2) knowledge or experience acquired, or communications or activities engaged in, as part of their official duties or otherwise related thereto or because of their official status while such individuals were employed by or acted as agent, contractor, or otherwise on behalf of the FDIC.

Legal proceeding means a judicial or administrative adjudication, action, case, matter, hearing, trial, arbitration, formal inquiry, formal investigation, or similar proceeding initiated before or subject to a court, agency or agency members, commission, board, grand jury, arbitrator, administrative law judge, hearing officer, or other authorized official or body, whether criminal, civil, or administrative in nature, under federal, state, local, or foreign law.

Non-party legal proceeding means a legal proceeding in which neither the FDIC (in the capacity to which the process is directed) nor an FDIC director, officer, or employee (in the capacity to which the process is directed) is a party.

Party means a person that is asserting claims or defending against claims in a legal proceeding. For purposes of this subpart, party does not include a person who intervenes, joins, or appears in a legal proceeding for a limited or special purpose, such as to contest a subpoena or seek a protective order in non-party discovery.

Person means an individual or an entity in any form, including a governmental organization.

Request means a written statement in which a party or other person involved in a legal proceeding asks the FDIC to provide or authorize access to FDIC documents or property or authorize FDIC testimony for use in a legal proceeding.

Testimony means a sworn or unsworn statement made by an individual for use or possible use by a party in a legal proceeding. Testimony may include, but is not limited to, live statements at a deposition, hearing, trial, or interview in person or by audio or visual communication; written or recorded responses to questions; or an affidavit, declaration, sworn statement, certification, or attestation.

Use, with respect to FDIC information provided in accordance with this subpart, means that, subject to conditions and limitations required by the FDIC general counsel or designee, authorized parties or other persons

involved in a legal proceeding may disclose FDIC information in the legal proceeding in the same manner and with the same protections as information obtained in discovery in the legal proceeding.

§ 309.52 Use of FDIC information in a non-party legal proceeding.

(a) *Prohibition.* No party or other person may obtain access to FDIC documents or property, obtain FDIC testimony, or use FDIC information in connection with a non-party legal proceeding without express authorization by the FDIC general counsel or designee, except as provided in this subpart or otherwise required by law.

(b) *Requests to use FDIC information in a non-party legal proceeding.* Except where the request process has been waived or the request is exempt pursuant to § 309.55, a party in a legal proceeding, or any other person involved in the legal proceeding, must submit a request to the FDIC general counsel or designee for:

(1) access to FDIC documents or property in the possession, custody, or control of the FDIC, for use in the legal proceeding;

(2) FDIC testimony for use in the legal proceeding;

(3) authorization to use FDIC documents or property in the legal proceeding when the FDIC documents or property are in the possession, custody, or control of the requesting party or person; or

(4) access to and authorization to use FDIC documents or property in the legal proceeding when a person in possession, custody, or control of FDIC documents or property has not had a request for use approved by the FDIC.

(c) *Subpoenas and other discovery demands.* Except where the request process has been waived or the request is exempt pursuant to § 309.55, a party seeking FDIC information for use in a non-party legal proceeding must submit a request to the FDIC general counsel and receive a decision prior to serving a subpoena or other discovery demand.

(1) Subpoenas or other discovery demands in a non-party legal proceeding will be processed in accordance with applicable law, rules, regulations, and privileges.

(2) The FDIC may object to, move to quash, or otherwise oppose a subpoena or other discovery demand on any appropriate basis, including failure to exhaust administrative remedies.

§ 309.53 Submitting a request.

(a) *Where to submit a request.* A party or other person should submit a request

directly to the FDIC general counsel or designee at the address provided on the FDIC's website.

(b) *Contents of a request.* A request must be in writing and should state, or attach documents containing, the following information:

(1) Information about the legal proceeding, current status, and schedule, and copies of pertinent pleadings and other filings.

(2) A detailed description of the FDIC documents or property sought; information about any person whose testimony is being requested and a summary of the anticipated FDIC testimony; why the FDIC information is relevant to the issues in the legal proceeding; and whether other evidence on those issues is available from non-FDIC sources.

(3) An agreement to reimburse the FDIC's reasonable costs for (A) locating, reviewing, and providing access to FDIC documents or property; and (B) providing FDIC testimony; and

(4) An agreement to comply with conditions or limitations on the FDIC information and its use that the FDIC general counsel or designee may require.

§ 309.54 Decisions on requests.

(a) *Consideration of requests.* The FDIC general counsel or designee will consider the contents of the written request; whether confidential, personal, financial, commercial, or supervisory information is being requested and, if so, the risk that such information could be publicly disclosed; whether fulfilling all or part of the request will materially interfere with FDIC operations; and the public interest. The FDIC general counsel or designee may discuss the request with the requester to obtain

more information or to modify the request.

(b) *Decision.* The FDIC general counsel or designee will issue a written decision granting or denying the request in full or in part, stating the reasons for the decision, and if appropriate, placing conditions or limitations on access to and use of FDIC information.

(c) *Reconsideration.* Within ten business days after the date of the written decision, the requesting party may submit a request to the FDIC general counsel for reconsideration of any aspect of the written decision. The FDIC general counsel or designee will review and decide the request for reconsideration within ten business days after receipt. Failure to submit a timely request for reconsideration constitutes the requesting party's concurrence with the written decision.

(d) *Final decision.* The written determination of a timely request for reconsideration is a final decision and exhausts the requesting party's administrative remedies with respect to the request for FDIC information.

(e) *Judicial review.* A party may seek judicial review of the final decision under the Administrative Procedure Act, 5 U.S.C. 702.

§ 309.55 Waiver and exemption of requirement for requests.

(a) *Waiver.* The FDIC general counsel or designee may, at any time, dispense with the requirement for a party or other person to submit a request prior to serving a subpoena or other discovery demand in a legal proceeding.

(b) *Exemption of requests for failed depository institution records.* The administrative requirements set forth in this subpart do not apply to subpoenas, court orders, or other legal process for records of failed depository institutions in the possession of the FDIC as receiver

or conservator. Subpoenas, court orders, or other legal process issued for such records will be evaluated in accordance with state and federal law, regulations, rules, and privileges applicable to the FDIC as receiver or conservator.

PART 327—ASSESSMENTS

■ 8. The authority citation for part 327 continues to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817–19, 1821, 1823.

§ 327.4 [Amended]

■ 9. Amend § 327.4(d) by removing “exempt information within the scope of § 309.5(g)(8) of this chapter” and adding “confidential information as defined at § 309.31 of this chapter” and by removing “the disclosure restrictions set out at § 309.6 of this chapter” and adding “the disclosure restrictions set out at § 309.32 of this chapter”.

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

■ 10. The authority citation for part 337 continues to read as follows:

Authority: 12 U.S.C. 375a(4), 375b, 1463, 1464, 1468, 1816, 1818(a), 1818(b), 1819, 1820(d), 1821(f), 1828(j)(2), 1831, 1831f, 1831g, 5412.

§ 337.12 [Amended]

■ 11. Amend § 337.12(b)(3)(ii) by removing “(copies of which are available at the addresses specified in § 309.4 of this chapter)”.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on June 25, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026–13123 Filed 6–29–26; 8:45 am]

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Part III

Department of the Interior

Office of Natural Resources Revenue

30 CFR Parts 1206 and 1290

Federal Oil, Gas, and Coal Amendments; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Parts 1206 and 1290

[Docket No. ONRR-2025-0001; DS63636400
DRT000000.CH7000267D1113RT]

RIN 1012-AA39

Federal Oil, Gas, and Coal
Amendments**AGENCY:** Office of Natural Resources
Revenue (“ONRR”), Interior.**ACTION:** Proposed rule.

SUMMARY: Consistent with Executive and Secretary’s orders, ONRR proposes to amend ONRR’s Federal oil, gas, and coal valuation regulations and to specify the standard of review for Director-level appeals. This rulemaking also proposes changes that will likely reduce cost and burden to industry and the Federal Government by simplifying regulatory requirements and ultimately incentivize production to unleash energy dominance. ONRR solicits comments on all aspects of this proposed action.

DATES: *Comment Period:* To ensure consideration, comments must be received at one of the addresses provided below by 11:59 p.m. EDT on August 31, 2026.

ADDRESSES: You may submit comments to ONRR using the following methods. Please reference the Regulation Identifier Number (“RIN”) for this action, “RIN 1012-AA39,” in your comment:

- *Electronically via the Federal eRulemaking Portal:* Please visit <https://www.regulations.gov>. In the Search Box, enter Docket ID “ONRR-2025-0001” and click “search” to view the publications associated with the docket folder. Locate the document with an open comment period and then click “Comment.” Follow the instructions to submit your public comments prior to the close of the comment period.

- *Email Submissions:* Please submit your comments via email at ONRR_RegulationsMailbox@onrr.gov with “RIN 1012-AA39” listed in the subject line of your message. Email submissions must be received before the close of the comment period.

Instructions: All comments must include the agency name and docket number or RIN for this rulemaking. All comments, including any personal identifying information or confidential business information contained in a comment, will be posted without change to <https://www.regulations.gov>.

Docket: For access to the docket to read background documents or

comments received, go to <https://www.regulations.gov> and locate the docket folder by searching the Docket ID (ONRR-2025-0001) or RIN number (RIN 1012-AA39). In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at <https://www.regulations.gov> under RIN 1012-AA39.

Information Collection Data: The Office of Management and Budget (“OMB”) maintains information on Information Collection Request (“ICR”) renewals and approvals. You may access this information at <https://www.reginfo.gov/public/do/PRASearch>. Under the “RIN” heading enter “1012-AA39” and click the “Search” button located at the bottom of the page. To view the ICR renewal or OMB approval status, click on the latest entry (based on the most recent date). On the “View ICR—OIRA Conclusion” page, check the box next to “All” to display all available ICR information provided by OMB.

FOR FURTHER INFORMATION CONTACT: For regulatory and procedural questions, contact Alexis Long, Regulations Supervisor, at (303) 231-3627 or by email at Alexis.Long@onrr.gov. For royalty valuation questions, contact Amy Lunt, Royalty Valuation and Regulations Program Manager, at (303) 231-3746, or by email at Amy.Lunt@onrr.gov.

SUPPLEMENTARY INFORMATION:**Background & Statutory Authority**

The Federal Oil and Gas Royalty Management Act of 1982 (“FOGRMA”), the Mineral Leasing Act of 1920 (“MLA”), and the Outer Continental Shelf Lands Act of 1953 (“OCSLA”) set forth the Secretary of the Interior’s (“Secretary”) authority to value oil, gas, and coal on Federal lands for royalty computation purposes. *See* 30 U.S.C. 207(a), 226(b), and 1702 and 43 U.S.C. 1337(a). Through the authority delegated by the Secretary, ONRR is responsible for administering a royalty management system to collect, account for, verify, and disburse royalties and other revenue generated from production on Federal lands, which includes oil, gas, coal, and other energy resources. *See* Secretary’s Order (“S.O.”) 3299, sec. 5. ONRR is specifically responsible for establishing guidelines and regulations that govern how royalties are calculated and determining the monetary obligations owed to the Federal Government from companies engaged in resource extraction on Federal lands, consistent with the particular lease, Federal statutes, and applicable regulations. This process requires accounting and

oversight to ensure that the royalty calculations reflect the fair value of the resources produced, thereby safeguarding public interests and maximizing revenue generated from Federal energy resources.

FOGRMA and the mineral leasing laws provide the Secretary with the authority to “prescribe such rules and regulations as . . . necessary to carry out this chapter.” 30 U.S.C. 1751(a). This proposed rule is published pursuant to the delegated authority found in various statutes and Secretary’s orders. *See* 30 U.S.C. 189 (MLA); 30 U.S.C. 1751 (FOGRMA); and 43 U.S.C. 1334 (OCSLA); *see also* S.O. 3299, sec. 5; and S.O. 3306, sec. 3–4. Because neither FOGRMA nor the mineral leasing laws provide how “value” for royalty computation purposes is determined, “value” is therefore determined within ONRR’s regulations, located at 30 CFR part 1206.

This proposed rulemaking seeks to better define and update portions of ONRR’s regulations to reflect current practices and recent industry reporting data. ONRR proposes to streamline and clarify these regulatory requirements with the goal of reducing cost and administrative burden to ONRR and industry. These objectives not only align with FOGRMA’s stated purpose but are also consistent with the administration’s policy of unleashing America’s energy potential as set forth in Executive Order (“E.O.”) 14154 and S.O. 3418 and to reduce regulatory burden on industry as set forth in E.O. 14192. This proposed action is consistent with these policies as the downstream impact of the proposed changes could create financial incentive to industry resulting in long-term increase to production of resources from Federal lands and waters. Further discussion of the information provided by other Interior bureaus is summarized in the respective sections below and outlined in ONRR’s Preliminary Regulatory Impact Analysis (“Preliminary RIA”) accompanying this proposed rule.

Description of Proposed Amendments

This proposed rule seeks to amend certain Federal oil, gas, and coal valuation provisions, among other changes. The proposed changes include (1) removing the default provision and all references thereto; (2) removing the misconduct definition; (3) extending the option to value gas using an index price to all Federal gas dispositions regardless of sales type; (4) updating the index-based transportation deductions based on more current data; (5) establishing that a lessee cannot report royalty values of less than zero for Federal

unprocessed gas, residue gas, and Natural Gas Liquids (“NGLs”); (6) setting forth ONRR’s ability to require production of a variety of records from lessees who elect to report under an index-based valuation option; (7) redefining gathering to allow additional deductions that a lessee was previously unable to claim in a transportation allowance; (8) identifying where the specifications for marketable condition would be established for residue gas or gas plant products; (9) clarifying depreciation with respect to non-arm’s-length transactions¹ for Federal oil, gas, and coal; (10) amending and clarifying certain definitions; and (11) establishing the standard of review and timeliness for ONRR Director-level appeals.

A. Reevaluated Components From the 2020 Rule

ONRR last amended its valuation regulations in the 2016 Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform Rule (“2016 Valuation Rule”). 81 FR 43338 (July 1, 2016).² The 2016 Valuation Rule added, among other things: (1) two sections in the regulations that allowed ONRR to determine value for royalty computation purposes under certain circumstances (herein referred to as “the default provision”); and (2) the addition of a lessee’s ability to elect to use an index price for non-arm’s-length transactions for Federal gas (generally referred to as an “index-based option”). ONRR’s 2016 Valuation Rule was subsequently challenged in the United States District Court for the District of Wyoming. *Cloud Peak Energy Inc. v. U.S. Dep’t of the Interior*, 559 F. Supp. 3d 1203 (D. Wyo. 2021) (vacating in part the Federal

and Indian coal provisions but upholding the Federal oil and gas changes from the 2016 Valuation Rule), affirmed by *Am. Petroleum Inst. v. U.S. Dep’t of Interior*, 81 F.4th 1048 (10th Cir. 2023). Thus, the Federal oil and gas provisions adopted in the 2016 Valuation Rule remain in effect and serve as the baseline regulatory requirements with respect to the Federal oil and gas changes proposed in this rulemaking.

On January 15, 2021, ONRR published the 2020 Valuation Reform and Civil Penalty Rule (“2020 Rule”) (86 FR 4612), which sought to, among other things, (1) remove the default provision; and (2) add an option for a lessee to elect to use an index price for arm’s-length transactions for Federal gas. However, the 2020 Rule was withdrawn and therefore never went into effect. See 86 FR 54045, ONRR 2020 Valuation Reform and Civil Penalty Rule: Final Withdrawal Rule (“2021 Withdrawal Rule”). ONRR acknowledged in the 2021 Withdrawal Rule that it would continue to consider and evaluate whether it would adopt certain provisions from the withdrawn 2020 Rule in a future rulemaking. ONRR stated that if it were to adopt certain provisions, “it will avoid the defects that permeated the rulemaking process that resulted in the 2020 Rule and which necessitate the withdrawal of that Rule.” 86 FR 54045, 54047. Moreover, consistent with case law, ONRR finds that a revised rulemaking based on “a reevaluation of which policy would be better in light of the facts” is “well within [its] discretion.” *Nat’l Ass’n of Home Builders v. EPA*, 682 F.3d 1032, 1038 (D.C. Cir. 2012) (citing *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 514–15 (2009)). Further, “[a] change in administration brought about by the people casting their votes is a perfectly reasonable basis for an executive agency’s reappraisal of the costs and benefits of its programs and regulations.” *Id.* at 1043 (quoting *Motor Vehicle Mfrs. Ass’n of the U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 59 (1983) (Rehnquist, J., concurring in part and dissenting in part)). An “agency is entitled to have second thoughts, and to sustain action which it considers in the public interest upon whatever basis more mature reflection suggests.” *Dana Corp. v. ICC*, 703 F.2d 1297, 1305 (D.C. Cir. 1983).

Additionally, an agency is entitled to give more weight to socioeconomic concerns than it may have under a different administration. *Organized Vill. of Kake v. U.S. Dep’t. of Agric.*, 795 F.3d 956, 968 (9th Cir. 2015) (en banc).

ONRR has the authority to revise its regulations, consistent in large part with the policy established in the Executive and Secretary’s Orders, so long as ONRR: (1) “display[s] awareness that it is changing position,” (2) shows “that the new policy is permissible under the statute,” (3) “believes” the new policy is better, and (4) provides “good reasons” for the new policy. *Fox*, 556 U.S. at 515–16 (emphasis in the original). If the “new policy rests upon factual findings that contradict those which underlay its prior policy,” agencies must include “a reasoned explanation . . . for disregarding facts and circumstances that underlay . . . the prior policy.” *Id.*

After additional review following the 2021 Withdrawal Rule, ONRR proposes to adopt the index-based valuation option, as amended, and remove the default provision and associated definition of misconduct. ONRR’s rationale for these two proposed changes is provided below.

1. Default Provision

ONRR seeks to remove the default provision from 30 CFR part 1206, subparts C and D for Federal oil and gas, references thereto, and the associated definition of misconduct from § 1206.20.

The mineral leasing laws and lease terms provide the Secretary with the authority and discretion to establish the value of production by applying various factors and relevant information. See 30 U.S.C. 207, 226, 1711; and 43 U.S.C. 1337. The default provision addresses valuation when ONRR determines (1) a contract does not reflect total consideration,³ (2) the gross proceeds accruing to the lessee or its affiliate under a contract do not reflect reasonable consideration due to misconduct or breach of the duty to market for the mutual benefit of the lessee and the lessor, or (3) ONRR is unable to ascertain the correct value of production due to a lessee’s failure to provide documents, for example.

Consistent with the *Fox* decision, ONRR acknowledges that removing the default provision and definition of misconduct is a change from its position taken in prior rulemakings. ONRR previously adopted the default provision in the 2016 Valuation Rule, in conjunction with the misconduct definition, with the intent to increase clarity and predictability on when and

¹ ONRR’s regulations, at 30 CFR 1206.20, define an “arms-length contract” to mean “a contract or agreement between independent persons who are not affiliates and who have opposing economic interests regarding that contract. To be considered arm’s-length for any production month, a contract must satisfy this definition for that month, as well as when the contract was executed.” To the contrary, a non-arm’s-length arrangement occurs when the lessee performs certain services itself, enters into a contract with an affiliate, or does not have a contract for said service. See 30 CFR 1206.20 (defining the term “affiliate.”); see also §§ 1206.116 (non-arm’s-length transportation allowance requirements for Federal oil), 1206.154 (non-arm’s-length transportation allowance requirements for Federal gas), 1206.161 (non-arm’s-length processing allowance requirements for Federal gas), 1206.259(b) (non-arm’s-length washing allowance requirements for Federal coal), and 1206.262(b) (non-arm’s-length transportation allowance requirements for Federal coal).

² Prior to ONRR’s publication of the 2016 Valuation Rule (proposed and final rule), ONRR also sought stakeholder feedback early in the process by publishing Advance Notices of Proposed Rulemaking on May 27, 2011 (76 FR 30878, 30881) and Notices to hold public workshops on September 9, 2011 (76 FR 55837–8).

³ “Total consideration” is addressed in ONRR’s definition of “gross proceeds” at 30 CFR 1206.20, which is in part defined as “the total monies and other consideration accruing for the disposition of . . . oil, gas, residue gas, and gas plant products”

how ONRR would exercise the Secretary's discretion to determine the value of production for royalty computation purposes when other valuation methods were inapplicable or unworkable. *See* 81 FR 43338, 43341. However, when ONRR added the default provision and definition of misconduct in the 2016 Valuation Rule, ONRR did not identify who within the agency would make the determination, whether that decision had to be approved, or whether it could be appealed. While this provided some flexibility in how the default provision could be applied, ONRR now acknowledges that this could likely create inconsistency in how the default provision is applied. The 2016 Valuation Rule defined "misconduct" so broadly that lessees, ONRR, and ONRR's State and Tribal partners were left without meaningful guidance or transparency as to what might be considered misconduct to trigger use of the default provision. Since the 2016 Valuation Rule went into effect, ONRR now also acknowledges that the default provision does not address whether it is a tool of last resort or a vehicle to collect and verify royalties more efficiently. Additionally, most public comment feedback received in response to ONRR's prior valuation rulemakings stated that the default provision language was overly broad and the definition of misconduct was a source of unnecessary ambiguity. *See* 81 FR 43338, 86 FR 4612, and 86 FR 54045.⁴ Although the Tenth Circuit upheld ONRR's promulgation of the default provision in the 2016 Valuation Rule, the ambiguity associated with the default provision could result in the inconsistent application of the rule and is likely a contributing factor to why ONRR has only applied the default provision in one instance since the 2016 Valuation Rule went into effect.⁵ Moreover, the authority to determine value when necessary already exists and is permissible under FOGPMA as part of the audit process and lease terms making the regulation language redundant. 30 U.S.C. 1711(c).

For the reasons stated above and public comment feedback from prior valuation regulations, ONRR proposes

to eliminate: (1) the default provision from its regulations, at §§ 1206.105 and 1206.144, (2) the several references thereto throughout 30 CFR part 1206, and (3) the definition of misconduct tied to the default provision, at § 1206.20. ONRR is soliciting comments on the proposed changes, as further explained below in Section III, "Requests for Public Comment."

2. Index-Based Valuation Option to Value Federal Gas and NGLs

ONRR proposes to amend §§ 1206.141–142 to (1) extend the Federal gas and Federal NGLs index-based valuation option for both processed and unprocessed gas, at the election of the lessee, to arm's-length sales; (2) change the Federal gas index-based valuation option from the highest bidweek price to a published bidweek index price; (3) update the Federal gas index-based valuation option transportation adjustments to incorporate current data; (4) expressly state that a lessee cannot report royalty values of less than zero for Federal unprocessed gas, residue gas, and NGLs; and (5) clarify that ONRR may require records from lessees that report under the index-based valuation option.

The proposed rule allows a lessee to elect to value either residue gas under the Federal gas index-based valuation option, NGLs under the Federal NGLs index-based valuation option, or both under their respective options if the residue gas and NGLs meet the requirements for using the index-based valuation option. ONRR proposes to provide this additional option to lessees to use an average market price to value their residue gas, NGLs, or both instead of using their gross proceeds and unbundling allowances to enable more streamlined reporting. Elections under this option would be made on a lease-by-lease basis. A lessee may elect to use the index-based valuation option for production occurring after the effective date set forth in the final rule. A lessee cannot change elections to use the index-based valuation option more often than once every two years. If, after a two-year election period, a lessee changes its election to gross proceeds, that election must remain for a minimum of two years. Lessees cannot make elections retroactively.

With respect to the index-based valuation option, ONRR stated in the 2021 Withdrawal Rule that it "may reexamine the issue in the future, after it has sufficient time to review, audit, and compare royalties received for index-based valuation of Federal gas sold at non-arm's-length and actual transaction data for Federal gas sold at

arm's-length received after the reinstatement of the 2016 Valuation Rule." 86 FR 54045, 54057. ONRR received roughly 50 public comments in response to the proposed 2021 Withdrawal Rule and the proposed 2020 Valuation Rule that noted strong support for extending the index-based valuation option to arm's-length dispositions. Some commenters agreed that extending the option to arm's-length transactions would provide certainty and clarity to pricing and would effectively reduce administrative burden on lessees. While the 2016 Valuation Rule only adopted an index option for non-arm's-length transactions, ONRR also received public comments in response to the 2016 Valuation Rule that requested ONRR implement an arm's-length option for index reporting. However, ONRR decided not to extend the option at that time. Additionally, ONRR determined that a withdrawal of the 2020 Valuation Rule was warranted, in part, because the "index-based valuation formula generally is not as reliable a measure of royalty value as is the use of actual sales prices, transportation costs, and processing costs obtained or incurred in arm's-length transactions." 86 FR 54057. Under this proposed rule, and to overcome this issue, lessees must maintain and may be required to provide documentation of gross proceeds to ensure the index-based valuation option remains an accurate representation of value.

Based on updated data from calendar years 2020–2024, ONRR estimates \$2 million in reduced administrative costs to lessees (*see* Section III.B.1.v of the Preliminary RIA for a full assessment of administrative costs), which supports the administration's priority of minimizing regulatory burden. For calendar years 2020–2024, where the index-based valuation option for non-arm's-length sales were available to lessees, ONRR saw an adoption rate of approximately 16 percent. ONRR anticipates a higher adoption rate of the index-based valuation option under this proposed rule because: (1) the proposed rule seeks to extend the index-based valuation option to arm's-length Federal gas and NGL sales; and (2) the proposed rule changes the base price for the Federal gas index-based valuation option from *high* bidweek monthly price to the *average* (or "midpoint") index bidweek monthly price. The high bidweek price represents the maximum bid received for gas at a specific index location during the bid week, while the average bidweek price is a calculated midpoint or volume-weighted average of

⁴ ONRR sought to remove the default provision and definition of misconduct in the 2020 Valuation Rule based on similar rationale. However, due to other procedural reasons, ONRR opted to withdraw the 2020 Valuation Rule in its entirety but stated that it may reevaluate and explore the possibility of adopting certain changes from the 2020 Valuation Rule after further evaluation at a later date. *See* 86 FR 54045, 54047; *see also* the Preliminary RIA (incorporating the discussion of alternatives).

⁵ *See API*, 81 F.4th at 1074.

all bids for that period, providing a more representative price.

Both changes may potentially make the index-based valuation option more attractive to lessees because they provide a previously unavailable option for more streamlined reporting at a reasonable market value. While ONRR maintains that gross proceeds under an arm's-length contract is the best indicator of value because the transaction occurs between independent parties who are both motivated by self-interest, industry has communicated its support in prior public comments for extending the index-based valuation option to arm's-length sales. Furthermore, industry commenters previously expressed general support for using the published bidweek index price which more closely approximates their gross proceeds and may reduce administrative burden on industry. However, ONRR is soliciting public comment on its assumptions specific to the proposed changes for the index-based valuation option and whether these changes should be adopted in the final rule.

Currently, §§ 1206.141(c)(1)(i) and 1206.142(d)(1)(i) establish that the highest bidweek price is used for calculating value under the Federal gas index-based valuation option. In reevaluating this change proposed in the 2016 Valuation Rule and 2020 Rule, ONRR proposes using the published average bidweek price rather than the highest bidweek price (*see* Section III.B.2 in the Preliminary RIA). This price should more closely approximate the price many lessees likely receive as gross proceeds and would apply a universal valuation approach to unprocessed gas, residue gas, and NGLs. ONRR reconsidered its position taken in the 2016 Valuation Rule that the highest bidweek price is necessary to protect the interests of the Federal lessor. ONRR determined that, based on economic data (further discussed in the Preliminary RIA, Section III.B.2) and public comments, using the average bidweek index price would lower administrative burden and more closely approximate the price lessees would receive as gross proceeds. Comments even called out that often gas sales prices are based on the published average index price, so making this the ONRR standard would be most in line with industry pricing. The Bureau of Land Management ("BLM") estimates this may result in increased Federal royalty and lease bonus revenue and incentivize production on Federal lands.

More specifically, BLM anticipates ONRR's proposed changes will reduce

disputes between lessees and ONRR and enhance the attractiveness of Federal lands by providing greater certainty in fiscal obligations and simplifying compliance. Reducing administrative burden and improving the clarity and transparency of the regulatory requirements is likely to encourage more investment in Federal leases, which could lead to increased bonuses from lease competition. This efficient valuation process would provide more predictable royalty payments, enhancing the financial viability of Federal operations. Based on an estimate of a one percent increase in funding for Federal onshore oil and gas lease sales, BLM estimates a potential additional \$2.4 million annual impact on bonus bids⁶ within one year of the final rule.

ONRR additionally proposes to adjust the transportation deductions for the Federal gas index-based valuation option found in §§ 1206.141(c)(1)(iv) and 1206.142(d)(1)(iv) to more closely align with current market conditions. The initial Federal gas index-based valuation option transportation adjustments were calculated in the 2016 Valuation Rule. ONRR proposes to adjust these values to reflect more current numbers based on recent data.

Furthermore, ONRR proposes additions to §§ 1206.141 and 1206.142 to include language that the reported value of unprocessed gas, residue gas, and NGLs may not be less than zero. The value language is updated from the proposed 2020 Rule which included "at or less than zero." ONRR is updating this language to address when the value of gas received under a lessee's contract may be a negative value, and ONRR seeks to clarify that a lessee may not report a negative value in those cases but may report zero.

Finally, ONRR proposes to add language that requires a lessee to provide certain records if they report using the index-based valuation option. Because gross proceeds under an arm's-length sale is the best indicator of value, ONRR needs to access the records for certain sales to ensure that the index-based valuation option aligns with the value under arm's-length transactions for royalty purposes over time. ONRR seeks public comment on the proposed expansion of the index-based valuation option to arm's-length sales, in addition to the above-referenced modifications, as detailed further in Section III, "Requests for Public Comment," below.

⁶ BLM's regulations at 43 CFR 2809.14(c) generally define the term "bonus bid" to "consists of any dollar amount that a bidder wishes to bid in addition to the minimum bid."

B. Gathering Definition and Offshore Policy

1. Proposed Changes to Gathering

In 1988, the Minerals Management Service's ("MMS") promulgated its first substantive oil and gas royalty regulations, which defined gathering as "the movement of lease production to a central accumulation or treatment point." 53 FR 1184 (Jan. 15, 1988) (oil) and 53 FR 1230 (Jan. 15, 1988) (gas). At the time, companies were exploring Outer Continental Shelf ("OCS") deepwater areas (generally considered areas in water depths greater than 1,000 feet), but only minimal production had commenced. In the 1990s, industry moved heavily into the OCS deep water environment. Since that time, through experience and technological advances, industry has been producing oil and gas from deeper and harder-to-reach OCS areas. Despite these advances, the regulations defining gathering and transportation have been largely unchanged since 1988.

Moreover, since the 1988 rules went into effect, the phrase "central accumulation or treatment point" has not been further defined in the regulations. This lack of clarity has led to ongoing disputes and litigation between MMS/ONRR and lessees. *See, e.g., Nexen*, 2004 WL 722435 (E.D. La. 2004); *Kerr-McGee Corp.*, 147 IBLA 277 (1999); *DCOR, LLC v. United States Dep't of the Interior*, No. 3:21-CV-00120-N, 2023 WL 8628322 (N.D. Tex. Dec. 13, 2023) (upholding in part and remanding part ONRR's Director Decision in *DCOR, LLC*, ONRR-17-0074-OCS, 2019 WL 6127405 (Aug. 26, 2019)). In each of these disputes, and in others that ONRR encounters through its audit program, lessees have interpreted the phrase, "central accumulation or treatment point," to allow the lessee to deduct a larger transportation allowance from its royalties owed as compared to what ONRR may permit based on its interpretation of the same phrase. As a result, ONRR seeks to amend the definition of gathering in this proposed rule by clearly identifying the locations at which gathering ends and where transportation begins to resolve this issue.

Onshore Gathering

For Federal onshore, non-OCS leases, ONRR proposed to amend 30 CFR 1206.20 to define gathering as the movement of production from the wellhead to the BLM-approved measurement point. This is the location where the lessee has met BLM's operational requirements for royalty measurement and, typically, the point at

which a purchaser or transporter accepts oil or gas from the lessee. BLM generally refers to this as the Facility Measurement Point. By clearly articulating the BLM-approved measurement point in the regulations, it clarifies the point at which onshore gathering ends. This change does not impact the current interpretation of gathering for onshore leases and maintains the same effective definition for gathering as onshore Indian leases, ensuring conformity between BLM and the Bureau of Indian Affairs (“BIA”) leases.

ii. Offshore Gathering

OCS leases differ from onshore leases in several ways. Production occurs in water rather than on land. The subsea environment is harsh—with high pressures and cold temperatures. Also, offshore production must be moved to shore where the markets are located. Because of these physical differences, the Bureau of Safety and Environmental Enforcement (“BSEE”) may approve measurement points that are many miles away from the lease. Additionally, BSEE may approve royalty meters at different locations based on the type of production. More specifically, BSEE may approve a gas royalty meter on an offshore platform but may approve an oil or condensate royalty meter for the same lease at an onshore location. For these reasons, using the BSEE-approved measurement point to designate the end of gathering and the beginning of transportation does not provide the same clarity as using the BLM-approved measurement point for onshore leases.

Furthermore, BSEE may approve several measurement locations for different lease products such as gas, oil, drip condensate, and flash gas. Some measurement locations are on the first platform at which production surfaces, some are on secondary platforms, and some are onshore. When ONRR uses those measurement locations to designate the end of gathering and the beginning of transportation, it introduces unnecessary complexity and administrative burden. Before calculating its allowance, a lessee must identify the measurement location for each royalty-bearing product, of which there are at least two and as many as six or seven. When a lease has multiple measurement points, the lessee must perform separate transportation allowances for each product. This is also burdensome for ONRR to verify. It also creates a confusing situation where, if using the BSEE-approved measurement points for each product as the point where gathering ends, the movement of one product to shore is

considered transportation but the movement of other product to shore is gathering.

Another added complexity for offshore production exists as BSEE regularly approves off-lease measurement, whereas BLM rarely does. This creates situations where OCS lessees, particularly those in deepwater, may move production as far as 60 miles before the production is measured for royalty purposes. Defining this movement as gathering, which the current regulations do, is different than the on-lease gathering (usually less than one mile) that occurs for onshore lessees before the BLM-approved measurement point.

There are also differences related to how production is transported to downstream markets. Onshore, transportation equipment can easily be placed on the well pad and gas rarely leaves the lease exceeding the marketable condition requirements, while offshore, platforms house equipment that supports the transportation of production to shore, and, especially in deepwater, production regularly exceeds the marketable condition requirements. Platform equipment regularly compresses, dehydrates, or otherwise conditions gas beyond the marketable condition requirements, the costs of which ONRR would generally allow lessees to include in a transportation allowance under § 1206.153(b)(9). However, because this equipment is physically located upstream of the BSEE-approved royalty measurement point, under the current regulations, these costs are disallowed as gathering costs.

ONRR therefore proposes a separate definition for OCS production to account for these differences and additional complexities. ONRR proposes to revise the definition of gathering for OCS leases at § 1206.20 as the movement of production from the well to the closest of (1) a point of accumulation of one or more wells; (2) the point at which production is separated; or (3) the boundary of the lease. The proposed revision to the definition of OCS gathering would more closely match the convention used onshore, where gas and oil are generally measured and separated within the boundary of the lease itself, which would provide more consistency for the regulated entities.

Lastly, ONRR proposes to remove the language “For oil produced on the OCS, the movement of oil from the wellhead to the first platform is not transportation” from the oil and gas transportation allowance regulations

(§§ 1206.110 and 1206.152, respectively). ONRR’s proposal to amend the definition of gathering explained above renders this language moot.

2. Clarifying Additional Allowable Transportation Costs

ONRR’s regulations currently provide that a lessee can deduct certain “reasonable, actual costs” costs from its royalty value as a transportation allowance. *See* §§ 1206.110 and 1206.152. Through this proposed rule, ONRR proposes to specify that flow assurance costs related to transportation of production and other pipeline maintenance costs explained below would be an allowable cost a lessee can deduct under ONRR’s transportation allowance regulations.

Flow assurance for oil and gas pipelines includes, but is not limited to, physical or chemical processes related to ensuring production can flow through a pipeline without blockages forming from paraffin or hydrates. This change would include: (1) heated flowlines; (2) equipment such as pipeline pigs and associated pig launchers and receivers; and (3) chemicals that prevent blockages in a pipeline such as hydrate inhibitors or paraffin inhibitors. This addition will clarify certain pipeline maintenance costs, specifically costs related to flow assurance and pipeline remediation, may be included in a transportation allowance. ONRR is distinguishing the prior mentioned maintenance costs from the costs associated with injecting chemicals within the wellbore, because the chemicals in this situation would be required for production purposes. Therefore, ONRR would not allow these costs to be included in a transportation allowance. This proposed rule also clarifies that a lessee may deduct its reasonable, actual costs for repairing, replacing, or restoring operability of a plugged or damaged pipeline. If a lessee receives insurance compensation for these costs, the lessee must reduce its allowance by the compensation it receives.

While these categories mainly apply to OCS subsea movement, they may also apply to certain onshore lessees. Therefore, ONRR did not restrict these costs to OCS production only. ONRR proposes to address these categories by adding language to the arm’s-length transportation allowance regulations and the non-arm’s-length transportation allowance regulations. *See* §§ 1206.111–112 (oil) and §§ 1206.153–154 (gas).

ONRR’s proposed changes clarify and affirm that flow assurance costs are costs that support transportation. This change promotes clarity and certainty

by clearly stating these costs are transportation costs and may be included in a transportation allowance. In reducing the uncertainty of whether a cost may be included in an allowance, ONRR intends to reduce administrative burden for lessees by minimizing confusion surrounding deductions for these costs. In clearly specifying these costs, ONRR is creating more transparency for a lessee to know which costs it may include in its transportation allowance calculations, resulting in more accurate reporting. ONRR anticipates this will streamline ONRR audit and compliance activities, consistent with the requirements to ensure accurate and timely reporting under FOGPMA.

3. Deepwater Platform Equipment

Platform equipment is generally owned by the lessee, so the lessee must calculate their allowance under the non-arm's-length regulations. ONRR's regulations allow the lessee to deduct "capital investment costs . . . for depreciable fixed assets . . . that are an integral part of the transportation system." §§ 1206.112(e) and 1206.154(e). As a result of ONRR's proposed change to the definition of gathering for OCS leases, certain platform equipment costs would be eligible for a transportation allowance that were previously considered gathering costs. Through this proposed rule, ONRR seeks to specify and delineate in the regulations which OCS platform costs are integral to transportation and may therefore be included in a transportation allowance.

Prior to January 1, 2017, the regulations and the MMS Memorandum, entitled "Guidance for Determining Transportation Allowances for Production from Leases in Water Depths Greater Than 200 Meters," dated May 20, 1999 ("Deepwater Policy"), did not define which platform expenses were considered an "integral part of the transportation system." This ambiguity led to frequent disputes between ONRR and lessees, whereby lessees and ONRR disagreed as to whether certain platform equipment costs were "integral" to the transportation system.

ONRR proposes to amend its regulations to better define costs it considers to be integral to transportation, thereby clarifying what is an allowable transportation deduction. ONRR proposes to add language to specify that this includes platform costs related to flow assurance. Under the proposed changes for oil, a lessee may deduct the costs associated with pumps used to deliver oil into the export pipeline leaving the platform.

For gas, ONRR's proposed changes would allow a lessee to deduct the costs associated with the compression, dehydration, and treatment of gas to the extent that those services are required for transportation and exceed the services necessary to place production into marketable condition. This equipment requires space on the platform; and platform space has associated costs of designing and building the platform to accommodate all the needed equipment. Accordingly, the proposed rule allows lessees to deduct platform costs directly allocable to the space needed to house the allowed equipment, including equipment that conditions gas beyond the marketable condition requirements. Generally, platform space costs are allocated based on the square footage required for the allowed pieces of equipment.

Further, ONRR proposes to amend its regulations by adding the term, "directly allocable" to describe which costs for allowed equipment may be included in the allowance. *See* proposed §§ 1206.111(b)(13), 1206.112(c)(6), 1206.153(b)(13), and 1206.154(c). "Directly allocable" costs have a clear connection to the allowed transportation equipment and can be accurately quantified. For example, a piece of equipment will generally have clear costs of fabrication or purchase as well as delivery and installation. Additionally, most platforms track the usage of electricity by various pieces of equipment and will be able to quantify the amount of electricity used to power that compressor. This is one example of a directly allocable cost that a lessee may deduct. However, platform costs associated with lighting, the helipad, or living quarters, for example, do not have a clear connection to transportation nor is there a clear cost associated with transportation. These types of platform costs may not be included in the transportation allowance.

For floating platforms on the OCS, a lessee may also deduct costs directly allocable to the buoyancy needed to support the additional weight of the allowed transportation equipment. A lessee must use a reasonable method to calculate and allocate these costs and, when requested, provide documentation supporting its calculations and allocation methods. Generally, buoyancy costs are allocated based on the weight of the equipment.

In addition to transportation-related equipment, OCS platforms contain equipment that is required for reasons other than transportation such as production operations, human safety, environmental protection, drilling

operations, and other non-transportation related purposes. A lessee may only deduct the specific transportation-related platform costs listed in the proposed regulation.

4. Distinction Between This Proposed Rule and the Deepwater Section in the 2020 Rule

ONRR acknowledges it has modified its prior position with respect to gathering and allowances. ONRR previously rescinded the Deepwater Policy as part of the 2016 Valuation Rule. 81 FR 43340. The Deepwater Policy allowed lessees to deduct certain costs associated with moving bulk production from the seafloor to the first platform in water depths greater than 200 meters. When rescinding the Deepwater Policy through the 2016 Valuation Rule, ONRR stated the Deepwater Policy had served its purpose and was no longer needed because "[t]he regulations still allow offshore lessees to deduct considerable transportation costs to move oil and gas from the offshore platform to onshore markets." *Id.* ONRR stated that rescinding the policy would better clarify the meaning of gathering. Further, when the Tenth Circuit upheld ONRR's rationale for rescinding the Deepwater Policy in the 2016 Valuation Rule, it acknowledged that ONRR "had the power to reclassify those costs under its broad statutory authority to define 'the value of production' for royalty purposes" *API*, 81 F.4th 1048, 1061.

In the now withdrawn 2020 Rule, ONRR sought to allow a deduction of certain deepwater gathering costs by creating an exception to the gathering rule when certain conditions were met.⁷ The 2020 Rule provisions only applied to certain deepwater movement, and not to all deepwater movement or other areas such as shallow water properties in the Gulf of America, offshore Pacific properties off the coast of California, or remote Alaska properties. However, upon reevaluating this component of the 2020 Rule, ONRR determined that these provisions did not simplify the regulations and instead added more unintended complexity. Specifically, the 2020 Rule's attempted changes would have required lessees to review multiple factors to determine whether exceptions to the gathering requirement applied—such as water depth, adjacency requirements between the producing block and the block on which

⁷ See the 2020 Rule at 86 FR 4622 and the 2020 Proposed Rule, at 85 FR 62054, for a discussion of ONRR's regulatory history with respect to offshore policy, the definition of gathering, and the Deepwater Policy.

the platform was located, and the operational design of the subsea development. ONRR would subsequently be required to verify all this information when conducting compliance activities.

Additionally, the 2020 Rule did not specify which costs may be included in a transportation allowance. In addition to pipeline costs, platform costs are a significant part of a lessee's total cost of transportation on the OCS. However, platforms serve a variety of purposes, some related to transportation and some not. Thus, these ambiguities from the related provisions in the withdrawn 2020 Rule not only would have increased burden to both lessees and ONRR but could have also likely led to additional confusion and resulting appeals and litigation.

Through this proposed rule, ONRR intends to better define the location at which gathering ends and transportation begins. ONRR also intends to specify which platform costs, flow assurance costs, and pipeline remediation costs may be included in a transportation allowance. ONRR believes the proposed changes addressed herein serve as a better option than previous attempts to address OCS gathering costs.

ONRR recognizes that past rulemakings have stated that the cost of placing production into marketable condition must occur at no cost to the Federal lessor and defined the movement of bulk oil and gas production that has not been separated, treated, and measured for royalty purposes as gathering since those processes are integral to placing production in marketable condition. See 53 FR 1190–1191 and 86 FR 54050. The proposed change to the definition of gathering for OCS leases does not modify ONRR's interpretation of marketable condition costs but simply serves to rectify an inconsistency between onshore and OCS leases by allowing a transportation deduction for movement of production beyond the lease boundary or a nearby, on-lease location. For onshore leases, separation, treatment, and measurement of oil generally occur on the lease itself, and all movement beyond that point is transportation. The proposed definition of gathering for OCS leases more closely aligns onshore and OCS gathering. Under the proposed rule, the marketable condition processes of compression, dehydration, separation, treatment, etc. continue to be disallowed costs when calculating a transportation allowance. Thus, ONRR's proposed changes to its regulations are improvements to better delineate these regulatory requirements, which are permissible under FOGDRA's

intended purpose to ensure timely and accurate reporting and payment of royalties owed on production.

Moreover, based on data provided by the Bureau of Ocean Energy Management ("BOEM"), the proposed changes could benefit OCS lessees in the form of clarity, certainty, and cost savings in the calculation and payment of royalties. Through the estimated increase in deductions, and resulting decrease to royalty payments, BOEM anticipates the monies retained by industry could encourage lessees to reinvest in oil and gas production and infrastructure on the OCS. BOEM's analysis allocates a portion of the retained royalty payments to shareholders, taxes, and other financial obligations, with the majority, \$205 million per year, retained by industry to potentially reinvest in the Gulf of America OCS. Specifically, BOEM estimates a potential increase in production of 2.60 million barrels per year during calendar years 2031 through 2046. The estimated average annual increase in gross royalties for this additional production is \$30.4 million for the same period. BOEM's estimated incremental production is valued using a flat oil price of \$70 per barrel and a royalty rate of 16.67%. For additional information on the impact to future investment and production, please refer to the Preliminary RIA.

As specified below in Section III, "Requests for Public Comment," ONRR invites public comment on these proposed changes to the definition of gathering and the associated amendments to the transportation allowance regulations, including comments on any alternatives ONRR should consider.

C. Clarifying Marketable Condition

ONRR proposes to add § 1206.146(c) to identify where the specifications for marketable condition would be established for residue gas or gas plant products. ONRR's current regulations define marketable condition at § 1206.20 as "lease products which are sufficiently free from impurities and otherwise in a condition that they will be accepted by a purchaser under a sales contract typical for the field or area for Federal oil and gas." ONRR is not proposing changes to the definition of marketable condition but proposes to add § 1206.146(c) to clarify where gas is marketable under a sales contract typical for a field or area. The new paragraph § 1206.146(c) would codify ONRR's current practice and provide upfront transparency of what standards a lessee should use to evaluate its marketable condition requirements.

Marketable condition is the quality standard that residue gas and gas plant products must meet to be accepted by the purchaser. These quality requirements often include limits on the amount of acid gases, water vapor, or other impurities allowed, as well as a minimum pressure required for the residue gas and gas plant products to be delivered. Pursuant to § 1206.146(a), a lessee is required to place its production into marketable condition at no cost to the Federal lessor. The addition of paragraph (c) would add transparency and clarity to the location where gas needs to meet the quality standards for sale to commercial markets while retaining consistency with ONRR's established interpretation of the requirement.

Proposed § 1206.146(c)(1) would codify, consistent with ONRR's existing practice, that when a lessee, or a service provider on behalf of a lessee, delivers residue gas or gas plant products to a mainline pipeline, then a lessee's marketable condition would be set by the required delivery specifications for that pipeline. This paragraph identifies where ONRR has historically considered gas to be marketable based on the condition and access to markets. A mainline pipeline is typically the high-pressure pipeline that a processing facility delivers gas to after processing and that transports gas to its sales market. Mainline pipelines are often interstate pipelines, which are Federal Energy Regulatory Commission ("FERC") regulated, and the publicly available tariff for a pipeline specifies the gas quality requirements for that pipeline. The tariff may not define the minimum pressure. The minimum pressure requirement is the pressure which the mainline pipeline accepts delivery of residue gas or gas plant products.

For residue gas or gas plant products that are delivered to market through means other than a mainline pipeline, § 1206.146(c)(2) proposes that marketable condition would be established as the condition required by the transporter to market or purchaser. This may include gas plant products that are sold directly to a purchaser or are transported by other means (e.g. truck, rail, etc.) at the outlet of a processing plant. Marketable condition requirements would be the quality specifications outlined in either a purchase agreement or required by the transporter to market.

For situations where a lessee's gas is never processed by the lessee or purchaser on behalf of the lessee, and a lessee can reasonably demonstrate that there is a market at an alternative

location for the unprocessed gas, then the lessee would be able to use an alternative location for marketable condition under proposed § 1206.146(c)(3). This paragraph would clarify marketable condition requirements where there is a competitive market for unprocessed gas near the lease. A lessee would need to reasonably support that a competitive market exists for the unprocessed gas at an alternative location. For example, if a lessee has documentation of competing offers from different purchasers for the unprocessed gas near the lease and in its current condition that documentation could be used to support that a market exists near the lease. Simply selling lesser quality gas to any willing buyer would not satisfy a lessee's duty to market. For gas that is marketable at an alternative location, marketable condition is the specifications either required or accepted by the purchaser at the alternative delivery point.

ONRR's current regulations do not specify a location where quality standards are used to establish marketable condition requirements. However, through this proposed rule, ONRR seeks to incorporate the proposed language to align with ONRR's historical interpretation and practice. In addition to the proposed regulations representing longstanding practice and interpretation, numerous courts have upheld and applied those interpretations. *See, e.g. R.E. Yarbrough Co.*, 122 IBLA 217, 221 (1993); *Amoco Prod. Co. v. Watson*, 410 F.3d 722, 725 (D.C. Cir. 2005); *Devon Energy Corp. v. Kempthorne*, 551 F.3d 1030 (D.C. Cir. 2008); *J-W Operating Co.*, 159 IBLA 1 (2003). This proposed regulation helps to resolve uncertainty of interpreting where gas is in marketable condition.

D. Non-Arm's-Length Allowances Including Depreciation

Currently, a lessee may include costs of services, such as transportation, processing for gas, and washing for coal, in an allowance. In many situations, a lessee does not have an arm's-length contract for these services. Instead, it provides such services for itself or contracts with an affiliate, which ONRR considers a non-arm's-length arrangement.

In non-arm's-length allowance situations, ONRR's regulations allow a lessee to include the capital costs of transportation, processing, or washing assets in a non-arm's-length allowance. Under the current non-arm's-length allowance regulations at §§ 1206.112, 1206.154, 1206.161, 1206.259, and 1206.262), a lessee may claim an

allowance for capital costs by calculating either depreciation and a return on the undepreciated capital cost of a fixed asset or a return on the initial capital cost.

1. Acquired Assets

Under the current regulations, when a lessee acquires ownership of a transportation, processing, or washing system from another lessee, the regulations at §§ 1206.112(i)(1)(i), 1206.154(i)(1)(i), 1206.161(h)(1)(i), 1206.259(b)(2)(iv)(A), and 1206.262(b)(2)(iv)(A) provide that the acquisition will "not alter the depreciation schedule that the original . . . lessee established for purposes of the allowance calculation." When the acquiring lessee either does not have access to the depreciation schedule prepared and used by the original owner or when the original depreciation schedule does not comply with the regulations in §§ 1206.112, 1206.154, 1206.161, 1206.259, or 1206.262, the acquiring lessee may be denied the opportunity to include the cost of those acquired assets in an allowance. The current regulations also do not explicitly allow a lessee to claim the capital costs of an acquired asset or system in a non-arm's-length allowance.

ONRR proposes to modify the regulations at §§ 1206.112(i), 1206.154(i), 1206.161(h), 1206.259(b)(2)(v), and 1206.262(b)(2)(v) so that lessees may include the allowable capital costs associated with such acquired assets in a non-arm's-length allowance. For example, if a lessee acquired an existing gas pipeline that it uses to transport Federal gas and has a compliant depreciation schedule from said acquisition, this proposed rule will require the lessee to use the compliant schedule when calculating a transportation allowance for royalty reporting. If a lessee does not have a compliant depreciation schedule, the lessee could propose a depreciation schedule for the gas pipeline to ONRR. ONRR will review the lessee's proposal for reasonableness and consistency with a lessee's own policies and reporting, standard industry practices, and other factors that are listed in the relevant sections of the proposed rule. If ONRR approves the proposed depreciation schedule, it will replace any missing or non-compliant depreciation schedules, thus enabling the lessee to claim allowances for its acquired capital costs. If ONRR determines the proposed schedule is inaccurate or insufficient, the lessee must correct its royalty reporting on the Form ONRR-2014 within 30 days, consistent with

§ 1210.30, and pay any late payment interest owed.

2. Alternative In-Service Date

Although the proposed rule includes a path to claim depreciation for acquired assets, after the publication of a final rule, a lessee may still not be able to recoup the full value of the royalty share of capital costs as part of a non-arm's-length allowance. For example, under the proposed rule, a lessee may propose a depreciation schedule to ONRR. Should ONRR approve, the lessee may not be able to amend the reporting that corresponds to the approved depreciation schedule, and this time limitation effectively prevents the lessee from claiming the full amount of the royalty share of capital costs. Moreover, if the regulatory changes in this proposed rule become final, and ONRR allows the costs associated with a piece of equipment that was previously disallowed, a lessee may be able to realize the full economic benefit of that piece of equipment. Therefore, the addition of the alternative in-service date for depreciation is necessary for lessees to apply the proposed regulations for transportation allowances. To address this issue and allow a lessee the ability to recover the full capital cost of transportation, processing, and washing systems, ONRR proposes to allow a lessee to select an alternative in-service date. The alternative in-service date may only be claimed in situations where a fixed asset has not previously been included in a depreciation expense or a return on initial investment. The alternative in-service date does not change the total amount of depreciation or return that may be claimed in an allowance, but rather shifts the applicable depreciation window forward, thus providing a lessee the opportunity to claim the full royalty share of the capital cost in a non-arm's-length allowance.

3. Proposed Definitions

ONRR's current regulations do not precisely define many terms that a lessee would use to calculate a non-arm's-length allowance. This proposed method for depreciation of previously undepreciated assets necessitates adding and clarifying definitions for terms in the alternative service date and depreciation schedule provisions outlined above. The new definitions provide clarity and certainty for lessees when determining non-arm's-length allowances. ONRR anticipates that the consistent application of accounting terms will also reduce the administrative burden on industry of complying with ONRR's regulations.

Additionally, the proposed definitions will likely ensure consistency between lessees that may interpret and apply ONRR's current regulations differently. Thus, ONRR developed definitions that incorporate concepts from how industry commonly interprets and applies such terms; ONRR's interpretation of the

application of the current regulations in §§ 1206.112, 1206.154, 1206.161, 1206.259, and 1206.262; accounting principles generally accepted in the United States; and other expert sources. Since the additional definitions align with existing interpretation and practices, ONRR expects that lessees

will not need to substantially change their accounting and reporting processes for non-arm's-length allowances.

Through this proposed rule, ONRR seeks to add the following definitions in § 1206.20 for oil and gas and § 1206.251 for coal:

Proposed definition	Comment
<i>Actual cost</i> means a cost incurred by a lessee. Actual costs do not include imputed costs, theoretical costs, or avoided costs.	The current regulations make references to <i>Actual cost</i> in multiple places, but do not define it. Providing a definition for <i>Actual cost</i> allows a lessee to standardize reporting and reduce the compliance costs of royalty reporting by including in an allowance only those costs that will be supported by the definition.
<i>Alternative in-service date</i> means the date selected under §§ 1206.112(i)(1)(i), 1206.154(i)(1)(i), 1206.161(h)(1)(i), 1206.259(b)(2)(v)(B)(1), or 1206.262(b)(2)(v)(B)(1) from which the lessee will apply its depreciation schedule in calculating a non-arm's-length allowance. The term "alternative in-service date" has no meaning outside of the commodities and regulations mentioned.	The proposed regulations add the option for a lessee to propose an alternative in-service date for fixed assets in certain circumstances. This definition identifies the location of the regulations governing this option and clarifies that the option is only available for royalty reporting of Federal oil, Federal gas, and Federal coal.
<i>Capital cost</i> means the actual cost associated with the initial purchase or construction of a fixed asset with a useful life greater than one year. Actual costs incurred to improve a fixed asset, enhance or modify a fixed asset's functionality, or extend the useful life of a fixed asset are also capital costs when the economic benefits of the changes extend beyond one year. Capital costs include those costs reasonable and necessary to bring the fixed asset to the condition and location of its intended use, such as shipping, delivery, and installation cost. The capital cost of a fixed asset reflects its value when measured at the in-service date.	This definition also supports the expanded definition of <i>Gathering</i> for production from OCS leases in 30 CFR 1206.20 should a lessee elect to propose an alternative in-service date for transportation assets regarded as gathering under the current regulations. The current regulations provide a general description of capital cost, but do not precisely define it. Providing a definition for <i>Capital cost</i> allows a lessee to standardize reporting and identify what documentation will be required under audit. This clarity reduces the administrative and compliance costs of royalty reporting. Additionally, the definition of capital cost expands the scope of covered assets to include costs for improvements to a fixed asset that may be included in a non-arm's-length allowance, such as those for non-routine overhaul and maintenance. This expanded scope supports the proposed inclusion of <i>Costs to repair, replace or restore operability of a plugged or damaged pipeline</i> referenced in §§ 1206.111(b)(14) and 1206.153(b)(14).
<i>Depreciation</i> means the systematic and rational allocation of the capital cost less a reasonable salvage value of a fixed asset to expense during periods when economic benefits are available to obtain from the fixed asset. Depreciation begins at the in-service date.	The current regulations make references to <i>Depreciation</i> in multiple places, but do not define it. Providing a definition for <i>Depreciation</i> allows a lessee to standardize reporting and reduce the compliance costs of royalty reporting by calculating depreciation expense in a manner that will be supported by the definition. Additionally, the definition supports both the option for a lessee to select an <i>Alternative in-service date</i> and the ability to propose depreciation schedules when no prior schedule existed or when the prior schedule was not consistent with ONRR's regulations.
<i>Depreciation schedule</i> means a document used to record and track depreciation for a fixed asset. A depreciation schedule includes a list of fixed assets that can be separately identified. Each fixed asset entry must include the capital cost, the in-service date, the method of depreciation elected, the salvage value, and either the useful life, units of production, or life of reserve. For fixed assets depreciated as a group, the depreciation schedule shall demonstrate, or allow for the calculation of, either the group's useful life, units of production, or life of the reserve. The depreciation schedule includes, or allows for the calculation of, depreciation expense during the reporting period and the undepreciated capital cost.	The current regulations make references to a <i>Depreciation schedule</i>, but do not define it. Providing a definition for <i>Depreciation schedule</i> allows a lessee to standardize reporting and identify what documentation will be required under audit. This clarity reduces the administrative and compliance costs of royalty reporting. In addition, the proposed regulations explicitly allow for a lessee to select a depreciation method for individual assets or groups of assets. The proposed definition of <i>Depreciation schedule</i> supports this clarification and provides instruction on how a lessee must support its choice of a method of depreciation for groups of assets. Lastly, the definition supports both the option for a lessee to select an <i>Alternative in-service date</i> and the ability to propose depreciation schedules when no prior schedule existed or when the prior schedule was not consistent with ONRR's regulations.
<i>First-of-month convention</i> means that depreciation begins on the first day of the month of the in-service date or alternative in-service date.	The current regulations do not clarify how depreciation should be calculated when a fixed asset is placed in service during the middle of a reporting month. This definition clarifies how a lessee must calculate depreciation expense in a manner that will be supported by the definition. The <i>First-of-month convention</i> was selected to be consistent with common industry practice in order to minimize compliance costs.
<i>Fixed assets</i> means tangible assets owned or controlled by a lessee that are used to produce or provide goods and services in the primary business activities of that entity. Fixed assets have a useful life greater than one year.	The current regulations provide a general description of which assets may be included in an allowance, but do not precisely define it. Providing a definition for <i>Fixed assets</i> allows a lessee to standardize reporting and identify what documentation could be used to support an allowance.

Proposed definition	Comment
<i>In-service date</i> means the earlier of the date when a fixed asset is placed in service or the date when a fixed asset is functionally ready and available for its intended use. When considering a group of fixed assets, the group in-service date is the in-service date for the primary functional fixed asset of the group.	The definition of <i>Fixed assets</i> expands on the definition in the current regulation by explicitly including capitalized right-of-use assets and financing leases that may be controlled by a lessee. The current regulations do not define when <i>Depreciation</i> should begin but rather rely on a lessee's or an auditor's interpretation. Providing a definition for <i>In-service date</i> allows a lessee to standardize reporting and reduce the compliance costs of royalty reporting by calculating depreciation expense in a manner that will be supported by the definition.
<i>Life of the reserve</i> means the estimated term over which the natural reserve provides an economic benefit. A life of the reserve estimate is based on a report from an unaffiliated or independent expert and clearly identifies the assumptions supporting the estimate. If a fixed asset services multiple reserves, the life of the reserve represents the average of the individual reserve life estimates. Life of the reserve is measured in, or is convertible into, months and is determined at or prior to the in-service date.	Additionally, <i>In-service date</i> supports the definition of <i>Alternative in-service date</i> and a lessee's option to claim the capital cost of an allowable in-service asset in an allowance. The current regulations make references to <i>Life of the reserve</i> in multiple places, but do not define it. Providing a definition for <i>Life of the reserve</i> allows a lessee to standardize reporting and identify what documentation will be required under audit. This clarity reduces the administrative and compliance costs of royalty reporting.
<i>Operating Expense</i> means costs associated with the production or provision of goods and services by a business. Operating expenses are costs necessary for the company's normal, core business activities.	Additionally, <i>Life of the reserve</i> clarifies how to calculate depreciation expense when a fixed asset or group of fixed assets service multiple reserves. The current regulations make references to <i>Operating expense</i> in multiple places, but do not define it. Providing a definition for <i>Operating expense</i> allows a lessee to standardize reporting and reduce the compliance costs of royalty reporting by including only those costs that will be supported by the definition in an allowance. The specific list of allowable operating expenses in the current regulations remains, and this definition provides a universal description that can be used to address expenses not explicitly included in the regulation's list of allowable operating expenses.
<i>Overhead</i> means the indirect costs of producing or providing goods and services. Overhead must be systematically and rationally allocated to the goods or services being produced or provided. Overhead is a cost necessary for the company's normal, core business activities.	The current regulations make references to <i>Overhead</i> in multiple places, but do not define it. Providing a definition for <i>Overhead</i> allows a lessee to standardize reporting and reduce the compliance costs of royalty reporting by including only those costs that will be supported by the definition in an allowance.
<i>Reserve</i> means the estimated quantity of known accumulations of a natural resource anticipated to be commercially recoverable from a defined area under existing economic conditions and by established operating practices from a given date forward.	The current regulations make references to <i>Reserve</i> through the <i>Life of the reserve</i>, but do not define it. Providing a definition for <i>Life of the reserve</i> allows a lessee to standardize reporting and identify what documentation will be required under audit. This clarity reduces the administrative and compliance costs of royalty reporting.
<i>Salvage value</i> means the value net of disposal costs that the payor expects to realize at the end of the useful life of an asset. Salvage values are designed to minimize any gain or loss at the time of disposal. Salvage value is greater than or equal to zero. Salvage value is determined at or prior to the in-service date.	The current regulations make references to <i>Salvage value</i> in multiple places, but do not define it. Providing a definition for <i>Salvage value</i> allows a lessee to standardize reporting and calculate depreciation expense in a manner that will be supported by the definition. In addition, <i>Salvage value</i> clarifies that this value is net of any costs necessary to realize the estimated salvage value of the fixed asset (i.e., disposal costs). Costs to realize a salvage value are calculated independently of liabilities unrelated to the realization of the salvage sale of a fixed asset, such as asset retirement obligations. Therefore, the salvage value cannot be less than zero.
<i>Straight-line depreciation method</i> means a method of depreciation that allocates capital costs evenly over the useful life of an asset or the life of the reserve. The rate of depreciation applicable to the reporting period under this method is determined by dividing the capital cost by the useful life of the fixed asset or the life of the reserve.	The current regulations make references to <i>Straight-line depreciation method</i> in multiple places, but do not define it. Providing a definition for <i>Straight-line depreciation method</i> allows a lessee to standardize reporting and calculate depreciation expense in a manner that will be supported by the definition. In addition, the definition supports both the option for a lessee to select an <i>Alternative in-service date</i> and the ability to propose depreciation schedules when no prior schedule existed or when the prior schedule was not consistent with ONRR's regulations.
<i>Unit-of-production depreciation method</i> means a method of depreciation that allocates capital cost based on the fixed asset's designed specifications and output parameters. The rate of depreciation applicable to the reporting period under this method is determined by dividing the capital cost by the units of production for which the fixed asset was designed.	The current regulations make references to <i>Unit-of-production depreciation method</i> in multiple places, but do not define it. Providing a definition for <i>Unit-of-Production depreciation method</i> allows a lessee to standardize reporting and calculate depreciation expense in a manner that will be supported by the definition. In addition, the definition supports both the option for a lessee to select an <i>Alternative in-service date</i> and the ability to propose depreciation schedules when no prior schedule existed or when the prior schedule was not consistent with ONRR's regulations.

Proposed definition	Comment
<i>Units of production</i> means the machine-hours for which an asset was designed to operate or the units of output that an asset was designed to produce. The units of production for a group of fixed assets are the capital-cost-weighted average units of production of the fixed assets comprising the group. Units of production are determined at or prior to the in-service date.	The current regulations make references to <i>Units of production</i> through the <i>Unit-of-production depreciation method</i>, but do not define it. Providing a definition for <i>Unit of production</i> allows a lessee to standardize reporting and calculate depreciation expense in a manner that will be supported by the definition. In addition, the definition supports both the option for a lessee to select an <i>Alternative in-service date</i> and the ability to propose depreciation schedules when no prior schedule existed or when the prior schedule was not consistent with ONRR's regulations.
<i>Useful life</i> means the term over which the asset provides an economic benefit. If a useful life is applied to a group of fixed assets, it is the capital-cost-weighted average useful life of the fixed assets comprising the group. Useful life is measured in, or is convertible into, months and is determined at or prior to the in-service date.	The current regulations make references to life of equipment through the <i>Straight-line depreciation method</i>, but do not define it. Providing a definition for <i>Useful life</i> allows a lessee to standardize reporting and calculate depreciation expense in a manner that will be supported by the definition. Furthermore, the definition supports the definition of <i>Capital cost</i>. Lastly, the definition supports both the option for a lessee to select an <i>Alternative in-service date</i> and the ability to propose depreciation schedules when no prior schedule existed or when the prior schedule was not consistent with ONRR's regulations.

The following examples demonstrate the application of these definitions when calculating straight-line (useful

life), straight-line (life of reserves), and

unit-of-production depreciation and undepreciated capital methods:

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Depreciation Schedule Example: Straight-Line Depreciation Method (Useful Life)

Reporting Month Feb-25

Description of Asset	Text	Asset #1	Asset #2	Asset #3
In-Service Date	<i>MM/DD/YYYY</i>	3/15/2005	4/1/2024	2/18/2025
Depreciation Method	<i>Text</i>	Straight-Line	Straight-Line	Straight-Line
Useful Life	<i>Months</i>	240	120	84
Useful Life, Annual Conversion	<i>Years</i>	20	10	7
Capital Cost	\$	10,000,000.00	2,000,000.00	16,000.00
Salvage Value	\$	0.00	20,000.00	0.00
Accumulated Depreciation Expense, Beginning Balance	\$	9,958,333.33	165,000.00	0.00
Depreciation Expense	\$	41,666.67	16,500.00	190.48
Accumulated Depreciation Expense, Ending Balance	\$	10,000,000.00	181,500.00	190.48
Undepreciated Capital Cost, Beginning Balance	\$	41,666.67	1,815,000.00	16,000.00

Reporting Month Mar-25

Description of Asset	Text	Asset #1	Asset #2	Asset #3
In-Service Date	<i>MM/DD/YYYY</i>	3/15/2005	4/1/2024	2/18/2025
Depreciation Method	<i>Text</i>	Straight-Line	Straight-Line	Straight-Line
Useful Life	<i>Months</i>	240	120	84
Useful Life, Annual Conversion	<i>Years</i>	20	10	7
Capital Cost	\$	10,000,000.00	2,000,000.00	16,000.00
Salvage Value	\$	0.00	20,000.00	0.00
Accumulated Depreciation Expense, Beginning Balance	\$	10,000,000.00	181,500.00	190.48
Depreciation Expense	\$	0.00	16,500.00	190.48
Accumulated Depreciation Expense, Ending Balance	\$	10,000,000.00	198,000.00	380.95
Undepreciated Capital Cost, Beginning Balance	\$	0.00	1,798,500.00	15,809.52

Depreciation Schedule Example: Straight-Line Depreciation Method (Life of Reserve)

Reporting Month Feb-25

Description of Asset	Text	Asset #1	Asset #2	Asset #3
In-Service Date	MM/DD/YYYY	3/15/2005	4/1/2024	2/18/2025
Depreciation Method	Text	Straight-Line	Straight-Line	Straight-Line
Life of Reserve	Months	240	240	240
Life of Reserve, Annual Conversion	Years	20	20	20
Capital Cost	\$	10,000,000.00	2,000,000.00	16,000.00
Salvage Value	\$	0.00	20,000.00	0.00
Accumulated Depreciation Expense, Beginning Balance	\$	9,958,333.33	82,500.00	0.00
Depreciation Expense	\$	41,666.67	8,250.00	66.67
Accumulated Depreciation Expense, Ending Balance	\$	10,000,000.00	90,750.00	66.67
Undepreciated Capital Cost, Beginning Balance	\$	41,666.67	1,897,500.00	16,000.00

Reporting Month Mar-25

Description of Asset	Text	Asset #1	Asset #2	Asset #3
In-Service Date	MM/DD/YYYY	3/15/2005	4/1/2024	2/18/2025
Depreciation Method	Text	Straight-Line	Straight-Line	Straight-Line
Life of Reserve	Months	240	240	240
Life of Reserve, Annual Conversion	Years	20	20	20
Capital Cost	\$	10,000,000.00	2,000,000.00	16,000.00
Salvage Value	\$	0.00	20,000.00	0.00
Accumulated Depreciation Expense, Beginning Balance	\$	10,000,000.00	90,750.00	66.67
Depreciation Expense	\$	0.00	8,250.00	66.67
Accumulated Depreciation Expense, Ending Balance	\$	10,000,000.00	99,000.00	133.33
Undepreciated Capital Cost, Beginning Balance	\$	0.00	1,889,250.00	15,933.33

Depreciation Schedule Example: Unit-of-Production Depreciation Method

Reporting Month

Feb-25

Description of Asset	Text	Asset #1	Asset #2	Asset #3
In-Service Date	MM/DD/YYYY	3/15/2005	4/1/2024	2/18/2025
Depreciation Method	Text	Unit-of-Production	Unit-of-Production	Unit-of-Production
Units of Production	Machine-Hours	32,000	11,200	15,000
Units of Output Utilized, Current Month	Machine-Hours	120	60	100
Accumulated Units of Output Utilized, Beginning Balance	Machine-Hours	31,800	720	0
Capital Cost	\$	10,000,000.00	2,000,000.00	16,000.00
Salvage Value	\$	0.00	20,000.00	0.00
Accumulated Depreciation Expense, Beginning Balance	\$	9,937,500.00	127,285.71	0.00
Depreciation Expense	\$	37,500.00	10,607.14	106.67
Accumulated Depreciation Expense, Ending Balance	\$	9,975,000.00	137,892.86	106.67
Undepreciated Capital Cost, Beginning Balance	\$	62,500.00	1,852,714.29	16,000.00

Reporting Month

Mar-25

Description of Asset	Text	Asset #1	Asset #2	Asset #3
In-Service Date	MM/DD/YYYY	3/15/2005	4/1/2024	2/18/2025
Depreciation Method	Text	Unit-of-Production	Unit-of-Production	Unit-of-Production
Units of Production	Machine-Hours	32,000	11,200	15,000
Units of Output Utilized, Current Month	Machine-Hours	160	100	150
Accumulated Units of Output Utilized, Beginning Balance	Machine-Hours	31,920	780	100
Capital Cost	\$	10,000,000.00	2,000,000.00	16,000.00
Salvage Value	\$	0.00	20,000.00	0.00
Accumulated Depreciation Expense, Beginning Balance	\$	9,975,000.00	137,892.86	106.67
Depreciation Expense	\$	25,000.00	17,678.57	160.00
Accumulated Depreciation Expense, Ending Balance	\$	10,000,000.00	155,571.43	266.67
Undepreciated Capital Cost, Beginning Balance	\$	25,000.00	1,842,107.14	15,893.33

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4. Other Related Changes

This proposed rule also seeks to clarify that the reporting period for a non-arm's-length allowance is the reporting month following the production month. This clarification would ensure that expenses are recorded and included in an allowance in the month that they are incurred.

ONRR also notes that the current regulations do not explicitly state the level at which a lessee may select a method of depreciation. Lessees may find it more accurate or appropriate to choose different methods of depreciation for individual assets, segments of a larger system, or groups of assets. Thus, ONRR proposes to amend its regulations to explicitly allow the practice of selecting a method of depreciation at different asset levels and groupings. This proposed change, for example, will allow a lessee to calculate depreciation and a return on undepreciated capital for its allowances at the level of a pipeline segment between two points. Alternatively, a lessee would also have the option to calculate allowances at the level of the individual components of the pipeline segment, such as valves, compressor stations, pipelines, and pig launchers and receivers.

As stated in Section B.2 above regarding clarifying additional allowable transportation costs, this proposed rule clarifies that a lessee may deduct reasonable, actual costs for repairing, replacing, or restoring operability of a plugged or damaged pipeline. When these costs are incurred in a non-arm's-length transportation situation, the lessee would need to classify the costs as operating expenses or capital costs. For example, costs for chemical flushing would be an operating expense whereas the cost of replacing a section of pipeline would be capitalized. After classifying the applicable costs, the lessee would follow the non-arm's-length allowance regulations in the same manner as for other non-arm's-length costs.

Lastly, this proposed rule would re-categorize maintenance expense as an allowable operating expense, which aligns with general accounting practices. Additionally, this clarification reduces the overall number of definitions in the proposed regulations and removes extraneous distinctions between expenses related to operations and maintenance. The re-categorization of maintenance expense in the proposed regulations does not disallow maintenance expenses that are allowed under the current regulations.

Based on data provided by BOEM, the proposed changes to the non-arm's-length allowance regulations coupled with the proposed changes to the definition of gathering could benefit OCS lessees in the form of clarity, certainty, and cost savings in the calculation and payment of royalties. These benefits could encourage lessees to reinvest in oil and gas production and infrastructure on the OCS. Section II.B.4 discusses these potential future investments, with additional information available in the Preliminary RIA. Similarly, BLM anticipates the proposed changes related to asset depreciation, allowance regulations, and the related definitions may incrementally improve the attractiveness of Federal lands. Assuming an increased interest in Federal onshore oil and gas lease sales results in approximately a 0.5 percent increase in bonus bids, the BLM could potentially expect approximately \$1.2 million in increased bonus bids annually from future lease sales.

As outlined below in Section III, "Requests for Public Comment," ONRR invites public comment on this assumption and these proposed changes to the non-arm's-length allowance regulations and associated definitions.

E. Appeals Amendments

In addition to the proposed changes to Federal oil and gas and coal valuation regulations, ONRR seeks to clarify the standard of review and timeliness for ONRR Director-level appeals at 30 CFR part 1290. Federal regulations, at 30 CFR part 1290, set forth the procedures for an adversely affected party to appeal an Order issued by a subordinate employee of ONRR or a delegated State ("the issuing office") to the ONRR Director. The ONRR Director currently resolves the vast majority of appeals filed with it informally through its investigation of the appeal and discussions with the appellant. ONRR proposes to revise § 1290.105(f) to codify the ONRR Director's current practice of rendering a formal decision, when necessary, after reviewing the record before the issuing office along with the written statement of reasons submitted by the appellant. Through this proposed rule, ONRR also seeks to clarify at § 1290.105(f) that the ONRR Director will determine if there is credible evidence to support the Order and shall review all conclusions of law de novo. ONRR also proposes to add language indicating a decision will be rendered within a timely manner and not unreasonably withheld, consistent with the Director's continuing policy to expedite the appeals process when

possible. ONRR anticipates the addition of this language will streamline the processing of appeals by providing clarity in the appeals process. ONRR invites public comment on these proposed changes including whether the addition of this language would clarify the appeals review process.

Requests for Public Comment

For ONRR's consideration, before reaching a final decision on this action, ONRR requests comments, without limitation, on all components of this proposed action. This includes whether each component of this proposed rule achieves the rule's stated objectives to reduce costs and administrative burden to both ONRR and industry. ONRR is also requesting specific comments on the following:

A. Reevaluated Components of the 2020 Rule

1. Default Provision & Misconduct—ONRR seeks public comment on:

- Whether ONRR should remove the default provision and associated definition of misconduct for the reasons noted above.
 - If ONRR should consider revising the regulation text at §§ 1206.105 and 1206.144 to resolve the above-referenced ambiguities.
 - What ONRR should do to determine value in situations where the regulations do not result in a reasonable valuation method or are inapplicable.
 - If ONRR should consider adopting guidance to address the ambiguity issues highlighted or proceed with a regulation change.
2. Index-Based Valuation Option—ONRR seeks public comment on:
- Whether ONRR should adopt the proposed index-based valuation option originally contemplated in the 2020 Rule or maintain the status quo currently set forth in its regulations.
 - ONRR's assumptions specific to the proposed changes if the index-based valuation option were available for arm's-length dispositions and identifying the complexities industry could avoid.
 - Quantifying the administrative burden or savings that a lessee with arm's-length sales would realize if using the index-based valuation option in place of reporting such dispositions using gross proceeds.
 - If the requirement to use an ONRR-approved publication when electing the index-based valuation option would impose a cost barrier to smaller companies.
 - How changing from the highest bidweek price to a published bidweek index price affects stakeholders.

3. Gathering & Offshore Policy—ONRR seeks public comment on:

- The proposed onshore and offshore gathering definition changes, including whether these changes provide clarity and a more consistent application of the gathering rule between non-OCS and OCS lessees.

- Any alternatives to the proposed definition change and related changes in the transportation allowance sections that would provide better clarity and consistency.

- The proposed platform costs that a lessee may include in a transportation allowance, including whether the addition of this language accurately identifies a lessee's transportation-related platform costs and whether ONRR should consider any alternatives to the proposed language around floating platform costs.

- The addition of language that clarifies how pipeline remediation costs are treated under ONRR's transportation allowance regulations, including whether ONRR should consider any alternatives to this language that would better clarify how pipeline remediation costs should be treated.

- Whether these proposed changes would incentivize producers to seek new leases or increase existing production.

4. Marketable Condition—ONRR seeks public comment on:

- The addition of language to identify where the specifications for marketable condition would be established for residue gas or gas plant products.

- If a definition for "Mainline Pipeline" would be beneficial for additional clarity. For example, would the definition "Mainline Pipeline means a high-pressure gas pipeline that transports production from a field or area to a commercial market, often an interstate pipeline where gas is delivered after processing" provide certainty and cover the situations a lessee may have?

5. Depreciation—ONRR seeks public comment on:

- The proposed provision for how a lessee may handle acquired assets.

- The proposed provision for how a lessee may request an alternative in-service date for its depreciation schedule.

- The proposed definitions related to depreciation.

- The level of interest in the proposed provision to allow capital costs associated with acquired assets in non-arm's-length allowances.

- The level of interest in the proposed provisions to propose alternative in-service dates for assets in non-arm's-length allowances

- The potential costs and administrative burden associated with preparing depreciation schedules for proposal.

6. Appeals—ONRR seeks public comment on:

- Whether the addition of language indicating a decision will be rendered within a timely manner and not unreasonably withheld, will expedite the appeals process and accomplish the goal of providing clarity and early certainty when filing an appeal under part 1290.

- The proposed standard of review for ONRR Director-level appeals and whether the adoption of a different standard such as the scope of review defined under the Administrative Procedure Act would be clearer. *See* 5 U.S.C. 706(2)(A) (referring to "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law").

7. Preliminary RIA—ONRR seeks public comments on:

- The findings and assumptions made within its accompanying Preliminary RIA for this proposed rule.

- Other methods to more accurately quantify the economic impacts of the proposed changes.

- If ONRR should consider impacts to other parties or entities not currently referenced in its Preliminary RIA.

- Whether the proposed changes would in fact incentivize industry to increase its production and seek additional leases or lease expansions.

8. Compliance Date—ONRR seeks public comment on:

- Whether it should include a separate compliance date for reporting and payment in the final rule.

- If ONRR incorporates a separate compliance date, should the compliance date extend six months from the effective date or sooner?

VI. Procedural Matters

A. Regulatory Planning and Review (*E.O. 12866, 13563, and 14192*)

E.O. 12866, amended by E.O. 14215 and 13563, provides that the Office of Information and Regulatory Affairs ("OIRA") of OMB will review all significant rulemakings. OIRA determined this proposed rule is an economically significant action under E.O. 12866. This proposed rule, if finalized as proposed, is expected to be an E.O. 14192 deregulatory action.

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 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 further emphasizes 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. ONRR developed this rule in a manner consistent with these requirements.

E.O. 14192 defines a deregulatory action as an action that has been finalized and has total costs less than zero. As outlined in the Preliminary RIA and the summaries in this section titled "Procedural Matters," ONRR anticipates that this action, when finalized, will reduce the amount of overall royalties paid by lessees and therefore impose costs of zero or less. ONRR will reevaluate this statement following its review of the public comments and when this action is finalized, at the final rule stage.

The costs and benefits of the proposed rulemaking are compared against the baseline scenario. The baseline scenario, or status quo, represents ONRR's assessment of the current practices under the current regulatory framework.

Most of the revisions in the proposed rule would have no or negligible reporting cost impacts for lessees. ONRR anticipates that these changes, however, will likely yield a positive impact through the increased clarity of the regulation text, which in turn will likely result in more accurate reporting and a potential reduction in the time and cost, to both lessees and ONRR, associated with appeals and litigation. For additional discussion regarding the potential reduction in appeals and litigation time and costs, see the Preliminary RIA. Further, based on feedback provided by BOEM and BLM, ONRR anticipates that lessees may increase production and lease bonus payments above what would have otherwise been in the absence of this proposed rule. Upon review of ONRR's proposed changes, BOEM estimates that the rule may make up to \$205 million in retained earnings potentially available for reinvestment in the deepwater Gulf of America OCS. OCS. Reinvestment is defined as Gulf of America lessees' retained earnings, specifically for revenues and profits generated by Gulf of America leases only, after taxes and dividends. The analysis assumes 100% of these retained earnings will be reinvested into oil and gas development in the Gulf of America rather than used for other business

opportunities. Additionally, the analysis assumes that the reinvestment will not extend or improve the ultimate recovery of existing wells but would be used towards the development of incremental volumes in existing fields or new marginal fields. Additionally, for Federal onshore oil and gas lease sales, BLM estimates a total potential additional \$3.6 million annual impact on bonus bids from all proposed changes within one year of the final

rule. This example is based on a \$2.4 million increase if expanding the index option increases bonus bids by 1% and an additional \$1.2 million increase if the clarifying amendments result in a 0.5% increase in bonus bids. ONRR requests comment on the estimate of retained earnings, as well as whether 100% of retained earnings may be reinvested in the Gulf of America and other locations, used for existing wells or new development, or used for other

purposes not explicitly stated in our assumption. See Section III of the Preliminary RIA for further discussion.

All expected incremental costs of the proposed rule are due to the proposed changes to gathering, allowances, and the index-based valuation option. The table below presents a summary of the quantitative estimates of the annualized and total costs for the proposed rule.

Proposed rule change	Change in estimated annual royalty collections	Estimated annual administrative benefits and costs
Gathering Definition and Offshore Policy Amendments	(\$329,543,000)	.....
Index-Based Valuation Options to Value Federal Gas and NGLs Amendments	(1,563,000)	(\$2,572,000)
Change in Royalties: Marketable Condition and Processing Allowances Amendments .....	.....	.....
Change in Royalties: Non-arm's-length allowances including Depreciation Amendments .....	.....	.....
Change in Royalties: Eliminate Default Provision Requirements and Misconduct Definition for Federal Oil and Gas Amendments .....	.....	.....
Appeals Amendments .....	.....	.....
Annual Total	(331,106,000)	(2,572,000)

The estimated changes in royalty collections will change both the amount paid by the lessee and the amount of revenue collected by the Federal Government and disbursed to States and local governments on an annual basis. The net static impact of the proposed amendments is an estimated \$331 million annual decrease in royalty collections. This represents a decrease of approximately two percent of the total Federal oil, gas, and coal royalties that ONRR collected in 2024. The decreased near-term royalty collections may be offset by increased desirability of Federal leases and production on Federal properties due to (i) increased new asset development on Federal properties as a direct result of greater clarity and less economic burden to industry, and (ii) longer economic lives of existing producing assets due to lower lease operating expenses attributable to the reduced royalty collections and potential administrative savings from this proposed rule. Based on the information provided by BOEM and BLM, the potential increased production may result in greater lease bonus and royalty revenue paid to ONRR over the long-term, which may be greater than near-term reductions in royalty collections. ONRR welcomes comments on the accompanying Preliminary RIA for this proposed rule. The Preliminary RIA can be found in the rulemaking docket at www.regulations.gov.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601–612, requires agencies to analyze the economic impact of regulations when there is likely to be a significant economic impact on a substantial number of small entities and to consider regulatory alternatives that will achieve the agency's goals while minimizing the burden on small entities. When an agency issues a notice of proposed rulemaking, the RFA requires the agency to "prepare and make available for public comment an initial regulatory flexibility analysis" which will "describe the impact of the proposed rule on small entities." 5 U.S.C. 603(a). ONRR evaluated multiple alternatives to the proposed changes in its Preliminary RIA. For the reasons outlined in the Preliminary RIA, ONRR is not adopting any of those alternatives as part of this rulemaking. See Preliminary RIA, Sec. VI. Analysis of Alternatives. ONRR certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities for the reasons outlined below.

Lessees under this proposed rule primarily fall under the Small Business Administration's ("SBA") North American Industry Classification System ("NAICS") codes 211120 (crude petroleum extraction), 211130 (natural gas extraction), 212115 (underground coal mining), and 212114 (surface coal mining). For NAICS classifications 211120, 211130, and 212114, SBA defines a small business as one with

fewer than 1,250 employees, and 1,500 employees for underground coal mining. Using company demographic data of royalty reporters, ONRR estimates 91.9 percent of oil and gas reporters are considered "small entities" under the SBA's size definition of 1,250 employees. All oil and gas reporters would be impacted by the proposed rule if they report and pay on Federal oil and gas leases. Therefore, ONRR determined the proposed changes would affect a substantial number of small entities.

As stated in the Summary of Royalty Impacts and Costs Table, this rule would benefit industry through a reduction in royalties of approximately \$331 million per year. For FY 2022–2024, small businesses accounted for about four percent of the royalties collected by ONRR. Applying that percentage to industry costs, ONRR estimated that the changes in the proposed rule would result in royalty savings to small business lessees of approximately \$13.24 million per year, on average. This annual average savings over ten years, when discounted at seven percent, would represent over \$92.8 million in savings for small businesses. The extent of an economic impact, if any, would vary between companies due to, for example, differences in the volume of production that the small business produces and sells each year. This proposed rule provides businesses with more flexibility as each entity, including small businesses, are able to determine whether it is economically

advantageous to incur increases in administrative costs to reduce the royalties paid, based on an entity's individual circumstances.

The regulatory changes in this proposed rule are primarily clarifications or reflect ONRR regulatory updates to maintain consistency between ONRR's regulations and current practices. Most lessees have been reporting and paying based on these existing practices. Instead, this rule provides businesses with more flexibility as each entity, including small businesses, can determine whether it is economically advantageous to incur increases in administrative costs to reduce the royalties paid, based on an entity's individual circumstances. Moreover, the Federal coal proposed regulatory changes do not significantly impact ONRR's coal reporters because the only regulatory change for Federal coal is the inclusion of definitions to clarify depreciation and the request for companies proposing a depreciation schedule, not already included in 30 CFR part 1206, to submit a depreciation schedule to ONRR. With the estimated reduction in royalty payments and clarified requirements as specified in the Preliminary RIA, ONRR estimates that any impacts from this proposed rule will be a resulting positive impact. However, ONRR solicits public comment on this assumption. Therefore, ONRR does not anticipate that these regulatory updates will have a significant economic impact on small or large operators. To further assist large and small lessees, ONRR will provide reporting training, dear reporter letters, and compliance guidance upon publication of a final rule.

C. Unfunded Mandates Reform Act

This proposed rule would not impose an unfunded mandate or have a significant effect on State, local, or Tribal governments, or on the private sector, of more than \$100 million per year. Therefore, ONRR is not required to provide a statement pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*).

D. Takings (E.O. 12630)

Under the criteria in sec. 2 of E.O. 12630, this proposed rule does not have any significant takings implications. This proposed rule does not impose restrictions or limitations on the use of any private property. Through this proposed action, ONRR seeks to clarify its regulations and reduce administrative burden to industry that apply to Federal oil, gas, and coal valuation for royalty computation

purposes. Therefore, this proposed rule does not require a takings implication assessment.

E. Federalism (E.O. 13132)

Under the criteria in Section 1 of E.O. 13132, the proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. The management of Federal oil and gas is the responsibility of the Secretary, and ONRR distributes all the royalties that it collects under Federal oil and gas leases as directed by the relevant disbursement statutes. As outlined in the Preliminary RIA, ONRR anticipates that this proposed rule will not directly impose administrative costs on States or local governments. ONRR does not anticipate this rule altering the relationship between the Federal and State governments as defined in E.O. 13132; however, ONRR invites public comment on this topic as part of this proposed rule.

F. Civil Justice Reform (E.O. 12988)

This proposed rule complies with the requirements of E.O. 12988. Specifically, this proposed rule:

- (1) Meets the criteria of Section 3(a), which requires that ONRR review all regulations to eliminate errors and ambiguity to minimize litigation.
- (2) Meets the criteria of Section 3(b)(2), which requires that all regulations be written in clear language using clear legal standards.

G. Consultation With Indian Tribal Governments (E.O. 13175)

ONRR strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. ONRR evaluated this proposed rule under the Department's consultation policy and the criteria in E.O. 13175 and determined that it does not have substantial direct effects on federally recognized Indian Tribes, as it only applies to Federal oil, gas, and coal leases. Thus, consultation under ONRR's Tribal consultation policy is not required.

H. Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

The Paperwork Reduction Act ("PRA") (44 U.S.C. 3501 *et seq.*) requires an agency to have a currently valid OMB control number to require collection of information from a person or entity. Such collections of information include any request or requirement that person obtain,

maintain, retain, or report information to an agency or disclose information to a third party or to the public (44 U.S.C. 3502(3) and 5 CFR 1320.3(c)). This proposed rule contains ONRR information collection requests subject to review by OMB under the PRA. ONRR proposes the following two information collections as part of this rulemaking:

1. OMB Control Number 1012-NEW

Under the proposed changes at §§ 1206.112(i)(4), 1206.154(i)(4), and 1206.161(h)(4), a lessee may propose to ONRR a depreciation schedule if no depreciation schedule exists or has existed for an in-service fixed asset or if the depreciation schedule for an in-service fixed asset does not comply with the associated non-arm's-length allowance regulations. The depreciation schedule would identify the fixed assets covered by the proposal. Each fixed asset entry must include the capital cost, the in-service date, the method of depreciation elected, the salvage value, and either the useful life, units of production, or life of reserve. For fixed assets depreciated as a group, the depreciation schedule shall demonstrate, or allows for the calculation of, either the group's useful life, units of production, or life of the reserve. The depreciation schedule shall include, or allows for the calculation of, depreciation expense during the reporting period and the undepreciated capital cost. A lessee may also provide supporting documentation as established in the proposed regulation text.

Under the proposed changes at §§ 1206.111(b)(12-14), 1206.112(d), 1206.153(b)(12-14), and 1206.154(c)(3), ONRR clarifies which OCS platform costs may be included in a transportation allowance in the regulations. This includes platform costs related to flow assurance as well as costs associated with pumps used to deliver oil into the export pipeline leaving the platform. For gas, deductible costs for equipment that requires space on the platform include those associated with the compression, dehydration, and treatment of gas to the extent that those services are required for transportation and exceed the services necessary to place production into marketable condition. Accordingly, the platform costs directly allocable to the space needed to house the allowed equipment are deductible, and platform space costs are allocated based on the square footage required for the allowed pieces of equipment.

Additionally, under the proposed changes at §§ 1206.112(i)(1),

1206.154(i)(1), and 1206.161(h)(1), a lessee may propose to ONRR a depreciation schedule and an alternative in-service date if the lessee or prior owners never claimed an allowance that included depreciation expense and a return from on undepreciated capital costs or a return on initial undepreciated capital costs for a fixed asset.

Thus, in sum, ONRR would be collecting the following new information associated with the proposed depreciation changes for Federal oil and gas:

- Alternative in-service date—30 CFR 1206.112(i)(1), 30 CFR 1206.154(i)(1), and 30 CFR 1206.161(h)(1)
- Platform costs—30 CFR 1206.111(b)(12–14), 30 CFR 1206.112(d), 30 CFR 1206.153(b)(12–14), and 30 CFR 1206.154(c)(3)
- Depreciation schedule proposal—30 CFR 1206.112(i)(4), 30 CFR 1206.154(i)(4), and 30 CFR 1206.161(h)(4)

This ICR is associated with the information covered for Federal oil and gas reporting and royalty payments in OMB Control Number 1012–0005. Following the publication of ONRR’s Federal Oil, Gas, and Coal Amendments Final Rule (RIN 1012–AA39) and subsequent approval by OMB, ONRR intends to revise OMB Control Number 1012–0005 to incorporate the information collection in this ICR. Once these information collections have been incorporated into OMB Control Number 1012–0005 and approved by OMB, ONRR will discontinue this ICR.

Title of Collection: Federal Oil and Gas Depreciation and Platform Cost Collections—30 CFR part 1206.

OMB Control Number: 1012–NEW.

Form Number: None.

Type of Review: New information collection.

Respondents/Affected Public: Businesses.

Total Estimated Number of Annual Respondents: 753 Federal lessees/designees.

Total Estimated Number of Annual Responses: 753.

Estimated Number of Annual Burden Hours: 46,344 hours.

Estimated Completion Time per Response: The average completion time is 61.54 hours per response. The average completion time is calculated by dividing the total estimated burden hours (46,344) by the estimated annual responses (753).

Respondent’s Obligation: The information that a lessee must submit pursuant to 30 CFR part 1206 for proposing an alternative in-service date

and depreciation schedule to ONRR as well as accounting for platform costs for Federal oil and gas leases is required to obtain or retain a benefit.

Frequency of Collection: Annually and on occasion.

Estimated Annual Nonhour Burden Cost: ONRR has identified no “nonhour” cost burden associated with the collection of information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority:

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

2. OMB Control No. 1012–NEW

OMB has reviewed and approved information collections for the existing solid mineral and geothermal resource regulations at 30 CFR parts 1202, 1206, 1210, 1212, 1217, and 1218, which are assigned to OMB Control No. 1012–0010. As part of this proposed rule, ONRR intends to create a new information collection request because of the changes to Federal solid minerals proposed in this action. The following changes result in additional information collections from industry and therefore require OMB’s approval. The proposed new information collection requirements are as follows:

ONRR proposes to change §§ 1206.259(b)(2)(v), 1206.262(b)(2)(v) within its solid minerals regulations, which would allow a lessee to propose a depreciation schedule if no depreciation schedule exists or has existed for an in-service fixed asset or if the depreciation schedule for an in-service fixed asset does not comply with the associated non-arm’s-length allowance regulations. Similar changes are also proposed at §§ 1206.259(b)(2)(v)(B) and 1206.262(b)(2)(v)(B) regarding a lessee’s ability to propose a depreciation schedule and an alternative in-service date to ONRR under certain circumstances outlined above in the preamble to this proposed rule.

Thus, in sum, ONRR would be collecting the following new information associated with the proposed depreciation changes for Federal solid minerals:

- Alternative in-service date—30 CFR 1206.259(b)(2)(v)(B)(1) and 30 CFR 1206.262(b)(2)(v)(B)(1)
- Depreciation schedule proposal—30 CFR 1206.259(b)(2)(v)(D) and 30 CFR 1206.262(b)(2)(v)(D)

This ICR is associated with the information covered for solid minerals

reporting and royalty payments in OMB Control Number 1012–0010. Following the publication of ONRR’s Federal Oil, Gas, and Coal Amendments Final Rule (RIN 1012–AA39) and subsequent approval by OMB, ONRR intends to revise OMB Control Number 1012–0010 to incorporate the information collection in this ICR. Once these information collections have been incorporated into OMB Control Number 1012–0010 and approved by OMB, ONRR will discontinue this ICR.

Title of Collection: Federal Solid Minerals Depreciation Collections—30 CFR part 1206.

OMB Control Number: 1012–NEW.

Form Numbers: N/A.

Type of Review: New information collection.

Respondents/Affected Public: Businesses.

Total Estimated Number of Annual Respondents: 100 reporters.

Total Estimated Number of Annual Responses: 10.

Total Estimated Number of Annual Burden Hours: 80 hours.

Estimated Completion Time per Response: The average completion time is 8 hours per response. The average completion time is calculated by dividing the total estimated burden hours (80) by the estimated annual responses (10).

Respondent’s Obligation: The information is required to obtain or retain a benefit.

Frequency of Collection: Monthly, annually, and on occasion.

Estimated Annual Non-Hour Cost Burden: ONRR has identified no “non-hour” cost burden associated with the collection of information.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the PRA (44 U.S.C. 3501 *et seq.*).

I. National Environmental Policy Act of 1969

This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. ONRR is not required to provide a detailed statement under the National Environmental Policy Act of 1969 (“NEPA”) because this proposed rule qualifies for a categorical exclusion under 43 CFR 46.210(c) and (i), as well as the Departmental Manual, part 516, sec. 15.4.D, which covers: “(c) Routine financial transactions including such things as . . . audits, fees, bonds, and royalties . . . [and] (i) [p]olicies,

directives, regulations, and guidelines . . . [t]hat are of an administrative, financial, legal, technical, or procedural nature.” ONRR also determined that this proposed rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that require further analysis under NEPA.

J. Effects on the Energy Supply (E.O. 13211)

OIRA determined this proposed rule is significant under E.O. 12866, but it has not yet determined whether this rulemaking is deemed as a significant energy action under E.O. 13211 Section 4(b). ONRR asserts that this rulemaking does not meet the definition of a significant energy action because the proposed rule’s contents are not likely to have a significant adverse effect on the supply, distribution, or use of energy. As a result, ONRR did not prepare a Statement of Energy Effects pursuant to E.O. 13211 as one is not required. If OIRA deems this rulemaking a significant energy action, ONRR will address this section appropriately.

K. Severability Statement

If any provision, or portion of a provision, of this proposed rule is found, by a court or tribunal of competent jurisdiction, to be invalid under the law, it shall be regarded as stricken while the remainder of this rule, if finalized, shall proceed to go in full effect.

L. Clarity of This Regulation

E.O. 12866 (sec. 1(b)(12)), 12988 (sec. 3(b)(1)(B)), E.O. 13563 (sec. 1(a)), and the Presidential memorandum of June 1, 1998, require ONRR to write all rules in plain language. This means that the rules ONRR publishes must use:

- (1) Logical organization.
- (2) Active voice to address readers directly.
- (3) Clear language rather than jargon.
- (4) Short sections and sentences.
- (5) Lists and tables wherever possible.

If you believe that ONRR has not met these requirements, send your comments to *ONRR.RegulationsMailbox@onrr.gov*. To better help ONRR understand your comments, please make your comments as specific as possible. For example, you should tell ONRR the numbers of the sections or paragraphs that you think were written unclearly, the sections or sentences that you think are too long, and the sections for which you believe lists or tables would be useful.

This action is taken pursuant to delegated authority.

List of Subjects

30 CFR Part 1206

Coal, Continental shelf, Geothermal energy, Government contracts, Government employees, Indians—lands, Mineral royalties, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 1290

Administrative practice and procedure.

April Lockler,

Acting Director of the Office of Natural Resources Revenue.

Authority and Issuance

For the reasons discussed in the preamble, under the authority provided by Reorganization Plan No. 3 of 1950 (64 Stat. 1262) and S.O. 3299, ONRR proposes to amend 30 CFR parts 1206 and 1290 as follows:

PART 1206—PRODUCT VALUATION

- 1. The authority citation for part 1206 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.*, 25 U.S.C. 396, 396a *et seq.*, 398, 398a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

Subpart A—General Provisions and Definitions

- 2. Revise and republish 1206.20 as follows:

§ 1206.20 What definitions apply to this part?

The definitions in this section do not apply to subparts B, E, F and J of this part.

Actual cost means a cost incurred by a lessee. Actual costs do not include imputed costs, theoretical costs, or avoided costs.

Affiliate means a person who controls, is controlled by, or is under common control with another person. For the purposes of this subpart:

(1) Ownership or common ownership of more than 50 percent of the voting securities, or instruments of ownership or other forms of ownership, of another person constitutes control. Ownership of less than 10 percent constitutes a presumption of non-control that ONRR may rebut.

(2) If there is ownership or common ownership of 10 through 50 percent of the voting securities or instruments of ownership, or other forms of ownership, of another person, ONRR will consider each of the following factors to

determine if there is control under the circumstances of a particular case:

- (i) The extent to which there are common officers or directors.
- (ii) With respect to the voting securities, or instruments of ownership or other forms of ownership: The percentage of ownership or common ownership, the relative percentage of ownership or common ownership compared to the percentage(s) of ownership by other persons, if a person is the greatest single owner, or if there is an opposing voting bloc of greater ownership.
- (iii) Operation of a lease, plant, pipeline, or other facility.
- (iv) The extent of other owners’ participation in operations and day-to-day management of a lease, plant, or other facility.
- (v) Other evidence of power to exercise control over or common control with another person.

(3) Regardless of any percentage of ownership or common ownership, relatives, either by blood or marriage, are affiliates.

Alternative in-service date means the date selected under § 1206.112(i)(1)(i) for Federal oil, § 1206.154(i)(1)(i) or § 1206.161(h)(1)(i) for Federal gas, or § 1206.259(b)(2)(v)(B)(1) or § 1206.262(b)(2)(v)(B)(1) for Federal coal from which the lessee will apply its depreciation schedule in calculating non-arm’s-length allowance. The term “alternative in-service date” has no meaning outside of the commodities and regulations mentioned.

ANS means Alaska North Slope.

Area means a geographic region at least as large as the limits of an oil and/or gas field, in which oil and/or gas lease products have similar quality and economic characteristics. Area boundaries are not officially designated, and the areas are not necessarily named.

Arm’s-length-contract means a contract or agreement between independent persons who are not affiliates and who have opposing economic interests regarding that contract. To be considered arm’s-length for any production month, a contract must satisfy this definition for that month, as well as when the contract was executed.

Audit means an examination, conducted under the generally accepted Governmental Auditing Standards, of royalty reporting and payment compliance activities of lessees, designees or other persons who pay royalties, rents, or bonuses on Federal leases or Indian leases.

BIA means the Bureau of Indian Affairs of the Department of the Interior.

BLM means the Bureau of Land Management of the Department of the Interior.

BOEM means the Bureau of Ocean Energy Management of the Department of the Interior.

BSEE means the Bureau of Safety and Environmental Enforcement of the Department of the Interior.

Capital cost means the actual cost associated with the initial purchase or construction of a fixed asset with a useful life greater than one year. Actual costs incurred to improve a fixed asset, enhance or modify a fixed asset's functionality, or extend the useful life of a fixed asset are also capital costs when the economic benefits of the changes extend beyond one year. Capital costs include those costs reasonable and necessary to bring the fixed asset to the condition and location of its intended use, such as shipping, delivery, and installation cost. The capital cost of a fixed asset reflects its value when measured at the in-service date.

Compression means the process of raising the pressure of gas.

Condensate means liquid hydrocarbons (normally exceeding 40 degrees of API gravity) recovered at the surface without processing. Condensate is the mixture of liquid hydrocarbons resulting from condensation of petroleum hydrocarbons existing initially in a gaseous phase in an underground reservoir.

Constraint means a reduction in, or elimination of, gas flow, deliveries, or sales required by the delivery system.

Contract means any oral or written agreement, including amendments or revisions, between two or more persons, that is enforceable by law and that, with due consideration, creates an obligation.

Depreciation means the systematic and rational allocation of the capital cost less a reasonable salvage value of a fixed asset to expense during periods when economic benefits are available to obtain from the fixed asset. Depreciation begins at the in-service date.

Depreciation schedule means a document used to record and track depreciation for a fixed asset. A depreciation schedule includes a list of fixed assets that can be separately identified. Each fixed asset entry must include the capital cost, the in-service date, the method of depreciation elected, the salvage value, and either the useful life, units of production, or life of reserve. For fixed assets depreciated as a group, the depreciation schedule shall demonstrate, or allow for the calculation of, either the group's useful life, units of production, or life of the reserve. The depreciation schedule includes, or allows for the calculation of,

depreciation expense during the reporting period and the undepreciated capital cost.

Designee means the person whom the lessee designates to report and pay the lessee's royalties for a lease.

Exchange agreement means an agreement where one person agrees to deliver oil to another person at a specified location in exchange for oil deliveries at another location. Exchange agreements may or may not specify prices for the oil involved. They frequently specify dollar amounts reflecting location, quality, or other differentials. Exchange agreements include buy/sell agreements, which specify prices to be paid at each exchange point and may appear to be two separate sales within the same agreement. Examples of other types of exchange agreements include, but are not limited to, exchanges of produced oil for specific types of crude oil (such as West Texas Intermediate); exchanges of produced oil for other crude oil at other locations (Location Trades); exchanges of produced oil for other grades of oil (Grade Trades); and multi-party exchanges.

FERC means Federal Energy Regulatory Commission.

Field means a geographic region situated over one or more subsurface oil and gas reservoirs and encompassing at least the outermost boundaries of all oil and gas accumulations known within those reservoirs, vertically projected to the land surface. State oil and gas regulatory agencies usually name onshore fields and designate their official boundaries. BOEM names and designates boundaries of OCS fields.

First-of-month convention means that depreciation begins on the first day of the month of the in-service date or alternative in-service date.

Fixed assets means tangible assets owned or controlled by a lessee that are used to produce or provide goods and services in the primary business activities of that entity. Fixed assets have a useful life greater than one year.

Gas means any fluid, either combustible or non-combustible, hydrocarbon or non-hydrocarbon, which is extracted from a reservoir, and which has neither independent shape nor volume but tends to expand indefinitely. It is a substance that exists in a gaseous or rarefied state under standard temperature and pressure conditions.

Gas plant products means separate marketable elements, compounds, or mixtures, whether in liquid, gaseous, or solid form, resulting from processing gas, excluding residue gas.

Gathering means:

1. For production from non-OCS leases, the movement of production from the well to the BLM-approved FMP for royalty measurement.

2. For production from OCS leases, the movement of production from the well to one of the following locations, whichever is nearest to the well:

(i) the first point at which the production from two or more wells accumulate;

(ii) the point at which the production of a well is first separated into discrete constituents; or

(iii) the boundaries of the lease.

Geographic region means, for Federal gas, an area at least as large as the defined limits of an oil and or gas field in which oil and/or gas lease products have similar quality and economic characteristics.

Gross proceeds means the total monies and other consideration accruing for the disposition of any of the following:

(1) Oil. Gross proceeds also include, but are not limited to, the following examples:

(i) Payments for services such as dehydration, marketing, measurement, or gathering which the lessee must perform at no cost to the Federal Government.

(ii) The value of services, such as saltwater disposal, that the producer normally performs but that the buyer performs on the producer's behalf.

(iii) Reimbursements for harboring or terminalling fees, royalties, and any other reimbursements.

(iv) Tax reimbursements, even though the Federal royalty interest may be exempt from taxation.

(v) Payments made to reduce or buy down the purchase price of oil produced in later periods by allocating such payments over the production whose price that the payment reduces and including the allocated amounts as proceeds for the production as it occurs.

(vi) Monies and all other consideration to which a seller is contractually or legally entitled but does not seek to collect through reasonable efforts.

(2) Gas, residue gas, and gas plant products. Gross proceeds also include, but are not limited to, the following examples:

(i) Payments for services such as dehydration, marketing, measurement, or gathering that the lessee must perform at no cost to the Federal Government.

(ii) Reimbursements for royalties, fees, and any other reimbursements.

(iii) Tax reimbursements, even though the Federal royalty interest may be exempt from taxation.

(iv) Monies and all other consideration to which a seller is contractually or legally entitled but does not seek to collect through reasonable efforts.

Index means:

(1) For gas, the calculated composite price (\$/MMBtu) of spot market sales that a publication that meets ONRR-established criteria for acceptability at the index pricing point publishes.

(2) For oil, the calculated composite price (\$/barrel) of spot market sales that a publication that meets ONRR-established criteria for acceptability at the index pricing point publishes.

Index pricing point means any point on a pipeline for which there is an index, which ONRR-approved publications may refer to as a trading location.

Index zone means a field or an area with an active spot market and published indices applicable to that field or an area that is acceptable to ONRR under § 1206.141(d)(1).

Indian Tribe means any Indian Tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians for which any minerals or interest in minerals is held in trust by the United States or is subject to Federal restriction against alienation.

Individual Indian mineral owner means any Indian for whom minerals or an interest in minerals is held in trust by the United States or who holds title subject to Federal restriction against alienation.

In-service date means the earlier of the date when a fixed asset is placed in service or the date when a fixed asset is functionally ready and available for its intended use. When considering a group of fixed assets, the group in-service date is the in-service date for the primary functional fixed asset of the group.

Keepwhole contract means a processing agreement under which the processor delivers to the lessee a quantity of gas after processing equivalent to the quantity of gas that the processor received from the lessee prior to processing, normally based on heat content, less gas used as plant fuel and gas unaccounted for and/or lost. This includes, but is not limited to, agreements under which the processor retains all NGLs that it recovered from the lessee's gas.

Lease means any contract, profit-sharing arrangement, joint venture, or other agreement issued or approved by the United States under any mineral leasing law, including the Indian Mineral Development Act, 25 U.S.C. 2101–2108, that authorizes exploration for, extraction of, or removal of lease products. Depending on the context,

lease may also refer to the land area that the authorization covers.

Lease products mean any leased minerals, attributable to, originating from, or allocated to a lease or produced in association with a lease.

Lessee means any person to whom the United States, an Indian Tribe, and/or individual Indian mineral owner issues a lease, and any person who has been assigned all or a part of record title, operating rights, or an obligation to make royalty or other payments required by the lease. Lessee includes any person who has an interest in a lease.

Life of the reserve means the estimated term over which the natural reserve provides an economic benefit. A life of the reserve estimate is based on a report from an unaffiliated or independent expert and clearly identifies the assumptions supporting the estimate. If a fixed asset services multiple reserves, the life of the reserve represents the average of the individual reserve life estimates. Life of the reserve is measured in, or is convertible into, months and is determined at or prior to the in-service date.

Like quality means similar chemical and physical characteristics.

Location differential means an amount paid or received (whether in money or in barrels of oil) under an exchange agreement that results from differences in location between oil delivered in exchange and oil received in the exchange. A location differential may represent all or part of the difference between the price received for oil delivered and the price paid for oil received under a buy/sell exchange agreement.

Market center means a major point that ONRR recognizes for oil sales, refining, or transshipment. Market centers generally are locations where ONRR-approved publications publish oil spot prices.

Marketable condition means lease products which are sufficiently free from impurities and otherwise in a condition that they will be accepted by a purchaser under a sales contract typical for the field or area for Federal oil and gas.

Mine means an underground or surface excavation or series of excavations and the surface or underground support facilities that contribute directly or indirectly to mining, production, preparation, and handling of lease products.

Net output means the quantity of gas residue gas and each gas plant product that a processing plant produces.

Netting means reducing the reported sales value to account for an allowance

instead of reporting the allowance as a separate entry on the Report of Sales and Royalty Remittance (Form ONRR–2014) or the Solid Minerals Production and Royalty Report (Form ONRR–4430).

NGLs means Natural Gas Liquids.

NYMEX price means the average of the New York Mercantile Exchange (NYMEX) settlement prices for light sweet crude oil delivered at Cushing, Oklahoma, calculated as follows:

(1) First, sum the prices published for each day during the calendar month of production (excluding weekends and holidays) for oil to be delivered in the prompt month corresponding to each such day.

(2) Second, divide the sum by the number of days on which those prices are published (excluding weekends and holidays).

Oil means a mixture of hydrocarbons that existed in the liquid phase in natural underground reservoirs, remains liquid at atmospheric pressure after passing through surface separating facilities, and is marketed or used as a liquid. Condensate recovered in lease separators or field facilities is oil.

ONRR means the Office of Natural Resources Revenue of the Department of the Interior.

ONRR-approved commercial price bulletin means a publication that ONRR approves for determining NGLs prices.

ONRR-approved publication means:

(1) For oil, a publication that ONRR approves for determining ANS spot prices or WTI differentials.

(2) For gas, a publication that ONRR approves for determining index pricing points.

Operating Expense means costs associated with the production or provision of goods and services by a business. Operating expenses are costs necessary for the company's normal, core business activities.

Outer Continental Shelf (OCS) means all submerged lands lying seaward and outside of the area of lands beneath navigable waters, as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Overhead means the indirect costs of producing or providing goods and services. Overhead must be systematically and rationally allocated to the goods or services being produced or provided. Overhead is a cost necessary for the company's normal, core business activities.

Payor means any person who reports and pays royalties under a lease, regardless of whether that person is also a lessee.

Person means any individual, firm, corporation, association, partnership, consortium, or joint venture (when established as a separate entity).

Processing means any process designed to remove elements or compounds (hydrocarbon and non-hydrocarbon) from gas, including absorption, adsorption, or refrigeration. Field processes which normally take place on or near the lease, such as natural pressure reduction, mechanical separation, heating, cooling, dehydration, and compression, are not considered processing. The changing of pressures and/or temperatures in a reservoir is not considered processing. The use of a Joule-Thomson (JT) unit to remove NGLs from gas is considered processing regardless of where the JT unit is located, provided that you market the NGLs as NGLs.

Processing allowance means a deduction in determining royalty value for the reasonable, actual costs the lessee incurs for processing gas.

Prompt month means the nearest month of delivery for which NYMEX futures prices are published during the trading month.

Quality differential means an amount paid or received under an exchange agreement (whether in money or in barrels of oil) that results from differences in API gravity, sulfur content, viscosity, metals content, and other quality factors between oil delivered and oil received in the exchange. A quality differential may represent all or part of the difference between the price received for oil delivered and the price paid for oil received under a buy/sell agreement.

Reserve means the estimated quantity of known accumulations of a natural resource anticipated to be commercially recoverable from a defined area under existing economic conditions and by established operating practices from a given date forward.

Residue gas means that hydrocarbon gas consisting principally of methane resulting from processing gas.

Rocky Mountain Region means the States of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming, except for those portions of the San Juan Basin and other oil-producing fields in the "Four Corners" area that lie within Colorado and Utah.

Roll means an adjustment to the NYMEX price that is calculated as follows: $\text{Roll} = .6667 \times (P_0 - P_1) + .3333 \times (P_0 - P_2)$, where: P_0 = the average of the daily NYMEX settlement prices for deliveries during the prompt month that is the same as the month of production, as published for each day during the trading month for which the month of

production is the prompt month; P_1 = the average of the daily NYMEX settlement prices for deliveries during the month following the month of production, published for each day during the trading month for which the month of production is the prompt month; and P_2 = the average of the daily NYMEX settlement prices for deliveries during the second month following the month of production, as published for each day during the trading month for which the month of production is the prompt month. Calculate the average of the daily NYMEX settlement prices using only the days on which such prices are published (excluding weekends and holidays).

(1) Example 1. Prices in Out Months are Lower Going Forward: The month of production for which you must determine royalty value is December. December was the prompt month (for year 2011) from October 21 through November 18. January was the first month following the month of production, and February was the second month following the month of production. P_0 , therefore, is the average of the daily NYMEX settlement prices for deliveries during December published for each business day between October 21 and November 18. P_1 is the average of the daily NYMEX settlement prices for deliveries during January published for each business day between October 21 and November 18. P_2 is the average of the daily NYMEX settlement prices for deliveries during February published for each business day between October 21 and November 18. In this example, assume that P_0 = \$95.08 per bbl, P_1 = \$95.03 per bbl, and P_2 = \$94.93 per bbl. In this example (a declining market), $\text{Roll} = .6667 \times (\$95.08 - \$95.03) + .3333 \times (\$95.08 - \$94.93) = \$0.03 + \$0.05 = \$0.08$. You add this number to the NYMEX price.

(2) Example 2. Prices in Out Months are Higher Going Forward: The month of production for which you must determine royalty value is November. November was the prompt month (for year 2012) from September 21 through October 22. December was the first month following the month of production, and January was the second month following the month of production. P_0 , therefore, is the average of the daily NYMEX settlement prices for deliveries during November published for each business day between September 21 and October 22. P_1 is the average of the daily NYMEX settlement prices for deliveries during December published for each business day between September 21 and October 22. P_2 is the average of the daily

NYMEX settlement prices for deliveries during January published for each business day between September 21 and October 22. In this example, assume that P_0 = \$91.28 per bbl, P_1 = \$91.65 per bbl, and P_2 = \$92.10 per bbl. In this example (a rising market), $\text{Roll} = .6667 \times (\$91.28 - \$91.65) + .3333 \times (\$91.28 - \$92.10) = (-\$0.25) + (-\$0.27) = (-\$0.52)$. You add this negative number to the NYMEX price (effectively, a subtraction from the NYMEX price).

Sale means a contract between two persons where:

(1) The seller unconditionally transfers title to the oil, gas, or gas plant product to the buyer and does not retain any related rights, such as the right to buy back similar quantities of oil, gas, or gas plant product from the buyer elsewhere;

(2) The buyer pays money or other consideration for the oil, gas, or gas plant product; and

(3) The parties' intent is for a sale of the oil, gas, or gas plant product to occur.

Salvage value means the value net of disposal costs that the payor expects to realize at the end of the useful life of an asset. Salvage values are designed to minimize any gain or loss at the time of disposal. Salvage value is greater than or equal to zero. Salvage value is determined at or prior to the in-service date.

Section 6 lease means an OCS lease subject to section 6 of the Outer Continental Shelf Lands Act, as amended, 43 U.S.C. 1335.

Spot price means the price under a spot sales contract where:

(1) A seller agrees to sell to a buyer a specified amount of oil at a specified price over a specified period of short duration.

(2) No cancellation notice is required to terminate the sales agreement.

(3) There is no obligation or implied intent to continue to sell in subsequent periods.

Straight-line depreciation method means a method of depreciation that allocates capital costs evenly over the useful life of an asset or the life of the reserve. The rate of depreciation applicable to the reporting period under this method is determined by dividing the capital cost by the useful life of the fixed asset or the life of the reserve.

Trading month means the period extending from the second business day before the 25th day of the second calendar month preceding the delivery month (or, if the 25th day of that month is a non-business day, the second business day before the last business day preceding the 25th day of that

month) through the third business day before the 25th day of the calendar month preceding the delivery month (or, if the 25th day of that month is a non-business day, the third business day before the last business day preceding the 25th day of that month), unless the NYMEX publishes a different definition or different dates on its official website, www.cmegroup.com, in which case, the NYMEX definition will apply.

Transportation allowance means a deduction in determining royalty value for the reasonable, actual costs that the lessee incurs for moving:

(1) Oil to a point of sale or delivery off of the lease, unit area, or communitized area. The transportation allowance does not include gathering costs.

(2) Unprocessed gas, residue gas, or gas plant products to a point of sale or delivery off of the lease, unit area, or communitized area, or away from a processing plant. The transportation allowance does not include gathering costs.

Unit-of-production depreciation method means a method of depreciation that allocates capital cost based on the fixed asset's designed specifications and output parameters. The rate of depreciation applicable to the reporting period under this method is determined by dividing the capital cost by the units of production for which the fixed asset was designed.

Units of production means the machine-hours for which an asset was designed to operate or the units of output that an asset was designed to produce. The units of production for a group of fixed assets are the capital-cost-weighted average units of production of the fixed assets comprising the group. Units of production are determined at or prior to the in-service date.

Useful life means the term over which the asset provides an economic benefit. If a useful life is applied to a group of fixed assets, it is the capital-cost-weighted average useful life of the fixed assets comprising the group. Useful life is measured in, or is convertible into, months and is determined at or prior to the in-service date.

WTI differential means the average of the daily mean differentials for location and quality between a grade of crude oil at a market center and West Texas Intermediate (WTI) crude oil at Cushing published for each day for which price publications perform surveys for deliveries during the production month, calculated over the number of days on which those differentials are published (excluding weekends and holidays). Calculate the daily mean differentials by

averaging the daily high and low differentials for the month in the selected publication. Use only the days and corresponding differentials for which such differentials are published.

Subpart C—Federal Oil

■ 3. Amend § 1206.101 by:

- a. Revising paragraphs (a) introductory text, (c)(1) introductory text, and (c)(1)(i); and
- b. Adding paragraph (d).

The revisions and addition read as follows:

§ 1206.101 How do I calculate royalty value for oil I or my affiliate sell(s) under an arm's-length contract?

(a) The value of oil under this section for royalty purposes is the gross proceeds accruing to you or your affiliate under the arm's-length contract less applicable allowances determined under § 1206.111 or § 1206.112. This value does not apply if you exercise an option to use a different value provided in paragraph (c)(1) or (c)(2)(i) of this section, or if one of the exceptions in paragraph (d) of this section applies. You must use this paragraph (a) to value oil when:

* * * * *

(c)

(1) If you enter into an arm's-length exchange agreement, or multiple sequential arm's-length exchange agreements, and following the exchange(s) that you or your affiliate sell(s) the oil received in the exchange(s) under an arm's-length contract, then you may use either paragraph (a) of this section or § 1206.102 to value your production for royalty purposes. If you fail to make the election required under this paragraph, you may not make a retroactive election.

(i) If you use paragraph (a) of this section, your gross proceeds are the gross proceeds under your or your affiliate's arm's-length sales contract after the exchange(s) occur(s). You must adjust your gross proceeds for any location or quality differential, or other adjustments, that you received or paid under the arm's-length exchange agreement(s). If ONRR determines that any arm's-length exchange agreement does not reflect reasonable location or quality differentials, ONRR may require you to value the oil under § 1206.102. You may not otherwise use the price or differential specified in an arm's-length exchange agreement to value your production.

* * * * *

(d) This paragraph contains exceptions to the valuation rule in paragraph (a) of this section. Apply

these exceptions on an individual contract basis.

(1) In conducting reviews and audits, if ONRR determines that any arm's length sales contract does not reflect the total consideration actually transferred either directly or indirectly from the buyer to the seller, ONRR may require that you value the oil sold under that contract either under § 1206.102 or at the total consideration received.

(2) You must value the oil under § 1206.102 if ONRR determines that the value under paragraph (a) of this section does not reflect the reasonable value of the production due to either:

- (i) Misconduct by or between the parties to the arm's-length contract; or
- (ii) Breach of your duty to market the oil for the mutual benefit of yourself and the lessor.

■ 4. Amend § 1206.102 by revising the introductory text and paragraphs (d) and (e) to read as follows:

§ 1206.102 How do I value oil not sold under an arm's-length contract?

This section explains how to value oil that you may not value under § 1206.101 or that you elect under § 1206.101(c)(1) to value under this section. First, determine if paragraph (a), (b), or (c) of this section applies to production from your lease, or if you may apply paragraph (d) or (e) with ONRR's approval.

* * * * *

(d) *Unreasonable value.* If ONRR determines that the NYMEX price or ANS spot price does not represent a reasonable royalty value in any particular case, ONRR may establish a reasonable royalty value based on other relevant criteria.

(e) Production delivered to your refinery and the NYMEX price or ANS spot price is an unreasonable value.

(1) Instead of valuing your production under paragraph (a), (b), or (c) of this section, you may apply to ONRR to establish a value representing the market at the refinery if:

(i) You transport your oil directly to your or your affiliate's refinery, or exchange your oil for oil delivered to your or your affiliate's refinery; and

(ii) You must value your oil under this section at the NYMEX price or ANS spot price; and

(iii) You believe that use of the NYMEX price or ANS spot price results in an unreasonable royalty value.

(2) You must provide adequate documentation and evidence demonstrating the market value at the refinery. That evidence may include, but is not limited to:

(i) Costs of acquiring other crude oil at or for the refinery;

(ii) How adjustments for quality, location, and transportation were factored into the price paid for other oil;

(iii) Volumes acquired for and refined at the refinery; and

(iv) Any other appropriate evidence or documentation that ONRR requires.

(3) If ONRR establishes a value representing market value at the refinery, you may not take an allowance against that value under § 1206.113(b) unless it is included in ONRR's approval.

■ 5. Revise and republish § 1206.104 to read as follows:

§ 1206.104 How will ONRR determine if my royalty payments are correct?

(a)

(1) ONRR may monitor, review, and audit the royalties that you report, and, if ONRR determines that your reported value is inconsistent with the requirements of this subpart, ONRR may establish a reasonable royalty value based on other relevant criteria.

(2) If ONRR directs you to use a different royalty value, you must either pay any additional royalties due, plus late payment interest calculated under §§ 1218.54 and 1218.102 of this chapter) or report a credit for—or request a refund of—any overpaid royalties.

(b) ONRR may examine whether your or your affiliate's contract reflects the total consideration transferred for Federal oil, either directly or indirectly, from the buyer to you or your affiliate. If ONRR determines that additional consideration beyond that reflected in the contract was transferred, or that any portion of the consideration was not included in gross proceeds reported, ONRR may establish a reasonable royalty value based on other relevant criteria.

(c) ONRR may establish a reasonable royalty value based on other relevant criteria if ONRR determines that the gross proceeds accruing to you or your affiliate under a contract do not reflect reasonable consideration because:

(1) There is misconduct by or between the contracting parties;

(2) You have breached your duty to market the oil for the mutual benefit of yourself and the lessor; or

(3) ONRR cannot determine if you properly valued your oil under § 1206.101 or § 1206.102 for any reason including—but not limited to—your or your affiliate's failure to provide documents that ONRR requests under 30 CFR part 1212, subpart B.

(d) You have the burden of demonstrating that your or your affiliate's contract is arm's-length.

(e) ONRR may require you to certify that the provisions in your or your

affiliate's contract include all the consideration that the buyer paid to you or your affiliate, either directly or indirectly, for the oil.

(f)

(1) Absent contract revision or amendment, if you or your affiliate fail(s) to take proper or timely action to receive prices or benefits to which you or your affiliate are entitled, you must pay royalty based upon that obtainable price or benefit.

(2) If you or your affiliate apply in a timely manner for a price increase or benefit allowed under your or your affiliate's contract, but the purchaser refuses and you or your affiliate take reasonable documented measures to force purchaser compliance, you will not owe additional royalties unless or until you or your affiliate receive additional monies or consideration resulting from the price increase. You may not construe this paragraph to permit you to avoid your royalty payment obligation in situations where a purchaser fails to pay, in whole or in part or in a timely manner, for a quantity of oil.

(g)

(1) You or your affiliate must put all contracts, contract revisions, or amendments in writing, and all parties to the contract must sign the contract, contract revisions, or amendments.

(2) If you or your affiliate fail(s) to comply with paragraph (g)(1) of this section, ONRR may establish a reasonable royalty value based on other relevant criteria.

(3) This provision applies notwithstanding any other provisions in this title 30 to the contrary.

■ 6. Remove and reserve § 1206.105.

§ 1206.105 [Removed and Reserved]

■ 7. Amend § 1206.110 by

■ a. removing paragraphs (a)(1)(i) and (a)(1)(ii);

■ b. revising paragraph (a)(1); and

■ c. revising paragraph (f) introductory text and (f)(2).

The revisions read as follows:

§ 1206.110 What general transportation allowance requirements apply to me?

(a) * * *

(1) The movement to the sales point is not gathering;

* * * * *

(f) ONRR may direct you to modify your transportation allowance if:

* * * * *

(f)(2) ONRR determines that the consideration that you or your affiliate paid under an arm's-length transportation contract does not reflect the reasonable cost of the transportation because you breached your duty to

market the oil for the mutual benefit of yourself and the lessor by transporting your oil at a cost that is unreasonably high; or

* * * * *

■ 8. Amend § 1206.111 by:

■ a. adding paragraphs (b)(12), (b)(13), (b)(14), (c)(9);

■ b. revising paragraph (d); and

■ c. removing paragraphs (d)(1) and (d)(2).

The revisions read as follows:

§ 1206.111 How do I determine a transportation allowance if I have an arm's length transportation contract?

* * * * *

(b) * * *

(12) Flow assurance costs. You may deduct costs associated with ensuring the flow of oil through a pipeline. This includes, but is not limited to, flow assurance chemicals, pipeline pigging equipment, and heated pipelines. This does not include the cost of operations required for producing oil, such as, but not limited to, chemicals injected in the wellbore to bring production to the surface.

(13) OCS platform costs. You may deduct costs directly allocable to:

(i) Oil pumps used to deliver oil into the export pipeline leaving the platform.

(ii) Flow assurance as described in paragraph (12) of this section.

(iii) Platform space required to house equipment in paragraphs (i) and (ii) of this section.

(iv) Platform buoyancy required to support the weight of equipment in (i), (ii), and (iii).

(14) Costs to repair, replace, or restore operability of a plugged or damaged pipeline. You may deduct your reasonable actual costs for repairing, replacing, or restoring operability of a plugged or damaged pipeline. If you receive insurance compensation, you must reduce your allowance by the compensation received.

(c) * * *

(9) Any OCS platform costs not included in paragraph (b)(13) of this section.

(d) If you have no written contract for the arm's-length transportation of oil, you must propose to ONRR a method to determine the allowance using the procedures in § 1206.108(a). You may use that method to determine your allowance until ONRR issues its valuation determination.

■ 9. Revise and republish § 1206.112 as follows:

§ 1206.112 How do I determine a transportation allowance if I do not have an arm's-length transportation contract?

(a) This section applies if you or your affiliate do(es) not have an arm's-length

transportation contract, including situations where you or your affiliate provide your own transportation services. You must calculate your transportation allowance based on your or your affiliate's reasonable, actual costs for transportation during the reporting period using the procedures prescribed in this section.

(b) You or your affiliate's actual costs may include the following:

(1) Operating expenses under paragraph (f) of this section,

(2) Overhead under paragraph (g) of this section.

(3) Either:

(i) Depreciation expense and a return on undepreciated capital costs under paragraph (i) of this section, or

(ii) A cost equal to a return on the initial depreciable capital costs of the transportation system under paragraph (j) of this section.

(iii) Once you have elected to use either method for a transportation system, you may not later elect to change to the other alternative without ONRR's approval. If ONRR accepts your request to change methods, you may use your changed method beginning with the production month following the month when ONRR received your change request.

(4) The reporting period when you do not have an arm's-length transportation contract is the reporting month following the production month.

(c) To the extent not included in costs identified in paragraphs (e) through (g) of this section, if you or your affiliate incur(s) the following actual costs under your or your affiliate's non-arm's-length contract, you may include these costs in your calculations under this section:

(1) Fees paid to a non-affiliated terminal operator for loading and unloading of crude oil into or from a vessel, vehicle, pipeline, or other conveyance

(2) Transfer fees paid to a hub operator associated with physical movement of crude oil through the hub when you do not sell the oil at the hub; these fees do not include title transfer fees

(3) A volumetric deduction to cover shrinkage when high-gravity petroleum (generally in excess of 51° API) is mixed with lower gravity crude oil for transportation

(4) Fees paid to a non-affiliated quality bank administrator for administration of a quality bank

(5) The cost of carrying on your books as inventory a volume of oil that the pipeline operator requires you, as a shipper, to maintain—and that you do maintain—in the line as line fill; you must calculate this cost as follows:

(i) First, multiply the volume that the pipeline requires you to maintain—and that you do maintain—in the pipeline by the value of that volume for the current month calculated under § 1206.101 or § 1206.102, as applicable.

(ii) Second, multiply the value calculated under paragraph (c)(5)(i) of this section by the monthly rate of return, calculated by dividing the rate of return specified in paragraph (k) of this section by 12.

(6) Only OCS platform costs directly allocable to the following:

(i) Oil pumps used to deliver oil into the export pipeline leaving the platform.

(ii) Flow assurance as described in § 1206.111(b)(12).

(iii) Platform space required to house equipment in paragraphs (i) and (ii) of this section.

(iv) Platform buoyancy required to support the weight of equipment in (i), (ii), and (iii).

(d) You may not include in your transportation allowance:

(1) Any of the costs identified under § 1206.111(c); or

(2) Fees paid (either in volume or in value) for actual or theoretical line losses.

(3) Any cost as a deduction that duplicates all or part of any other cost that you use under this section.

(e) Allowable capital costs are those for fixed assets that are an integral part of the transportation system.

(f) Allowable operating expenses include the following:

(1) Operations supervision and engineering

(2) Operations labor

(3) Fuel

(4) Utilities

(5) Materials

(6) Ad valorem property taxes

(7) Rent

(8) Supplies

(9) Maintenance

(10) Maintenance labor

(11) Any other directly allocable and attributable operating expense that you can document

(g) Overhead directly attributable and allocable to the operation and maintenance of the transportation system is an allowable expense.

(h) State and Federal income taxes and severance taxes and other fees, including royalties, are not allowable expenses.

(i) To calculate depreciation expense and a return on undepreciated capital costs:

(1) Depreciation and a return on undepreciated capital costs are calculated from the in-service date.

(i) If you or prior owners never claimed an allowance that included

depreciation expense and a return on undepreciated capital costs or a return on initial undepreciated capital costs for a fixed asset, you may propose an alternative in-service date under (i)(4) of this section.

(ii) The alternative in-service date must not extend beyond the in-service date as extended by the shorter of the useful life and the life of the reserve.

(iii) You may not select the unit-of-production method when applying an alternative in-service date.

(iv) The application of an alternative in-service date does not change the useful life or life of the reserve.

(2) You may elect to use either a straight-line depreciation method or you may elect to use a unit-of-production depreciation method to calculate depreciation expense except when the alternative in-service date is applied under paragraph (i)(1)(i) of this section.

(i) Depreciation expense using the straight-line depreciation method is the rate of depreciation from the in-service date through the end of the useful life or life of the reserves under the first-of-month convention.

(ii) Depreciation expense using units-of-production depreciation is the product of the rate of depreciation and the units of output produced in the reporting period.

(iii) You may choose to apply these depreciation methods individually to each fixed assets or group of fixed assets.

(iv) After you make an election, you may not change methods without ONRR's approval. If ONRR accepts your request to change methods, you may use your changed method beginning with the production month following the month when ONRR received your change request.

(3) Lessees may include allowable depreciation expense for acquired fixed assets as part of a transportation allowance. If you have a depreciation schedule that the original transporter/lessee established in compliance with 30 CFR part 1206 for purposes of the allowance calculation, a change in ownership of a transportation system will not alter that depreciation schedule.

(4) Proposing a depreciation schedule to ONRR:

(i) If no depreciation schedule under 30 CFR part 1206 exists or has existed for an in-service fixed asset, you may propose to ONRR a depreciation schedule for your transportation allowance.

(ii) If the depreciation schedule for an in-service fixed asset does not comply with 30 CFR part 1206, you may propose to ONRR a depreciation

schedule for your transportation allowance.

(iii) ONRR will consider the following factors when reviewing a proposed depreciation schedule for approval:

(A) The lessee's or a prior owner's published capitalization policy, depreciation policy, fixed asset useful life policy, and any related policies in effect during the applicable period, when provided by the proposing lessee;

(B) Consistency with audited financial statements that have been prepared in accordance with generally accepted accounting principles in the United States ("U.S. GAAP"), when supporting records and reconciliations are provided by the proposing lessee;

(C) Documents prepared in support of the recording and capitalization of fixed assets under U.S. GAAP, when provided by the proposing lessee;

(D) Purchase price allocation reports prepared in accordance with U.S. GAAP by independent experts, when provided by the proposing lessee;

(E) Practices typical of the industry; and

(F) Any information that ONRR deems relevant regarding the depreciation schedule.

(iv) You may use your proposed depreciation schedule to calculate a transportation allowance beginning with the production month following the month when ONRR received your proposal until ONRR accepts or rejects it. If ONRR rejects your proposed depreciation schedule, you must amend your Form ONRR-2014 for the months that you used the rejected method and pay any additional royalty due, plus late payment interest.

(5) You may depreciate a transportation system, with or without a change in ownership, only once.

(6) To calculate the return on undepreciated capital cost, you may use an amount equal to the undepreciated capital cost of the transportation system at the beginning of the reporting period multiplied by the rate of return that you determine under paragraph (k) of this section. After you have depreciated a transportation system to the reasonable salvage value, you may thereafter include in the allowance calculation a cost equal to the reasonable salvage value multiplied by a rate of return under paragraph (k) of this section.

(j) As an alternative to using depreciation expense and a return on undepreciated capital cost, as provided under paragraph (b)(3) of this section, you may use as a cost an amount equal to the allowable initial capital cost of the transportation system multiplied by the rate of return determined under paragraph (k) of this section. You may

not include depreciation in your allowance.

(k) The rate of return is the industrial rate associated with Standard & Poor's BBB rating.

(1) You must use the monthly average BBB rate that Standard & Poor's publishes for the first month for which the allowance is applicable.

(2) You must re-determine the rate at the beginning of each subsequent calendar year.

■ 10. Revise and republish § 1206.141 as follows:

§ 1206.141 How do I calculate royalty value for unprocessed gas that I or my affiliate sell(s) under an arm's-length or non-arm's-length contract?

(a) This section applies to unprocessed gas. Unprocessed gas is:

(1) Gas that is not processed;

(2) Any gas that you are not required to value under § 1206.142; or

(3) Any gas that you sell prior to processing based on a price per MMBtu or Mcf when the price is not based on the residue gas and gas plant products.

(b) The value of gas under this section for royalty purposes is the gross proceeds accruing to you or your affiliate under the first arm's-length contract less a transportation allowance determined under § 1206.152. This value does not apply if you exercise the option in paragraph (c) of this section. Unless you elect to value your gas under paragraph (c) of this section, you must use this paragraph (b) to value gas when:

(1) You sell under an arm's-length contract;

(2) You sell or transfer unprocessed gas to your affiliate or another person under a non-arm's-length contract and that affiliate or person, or an affiliate of either of them, then sells the gas under an arm's-length contract, unless you exercise the option provided in paragraph (c) of this section;

(3) You, your affiliate, or another person sell(s) unprocessed gas produced from a lease under multiple arm's-length contracts, and that gas is valued under this paragraph. Unless you exercise the option provided in paragraph (c) of this section, the value of the gas is the volume-weighted average of the values, established under this paragraph, for each contract for the sale of gas produced from that lease; or

(4) You or your affiliate sell(s) under a pipeline cash-out program. In that case, for over-delivered volumes within the tolerance under a pipeline cash-out program, the value is the price that the pipeline must pay you or your affiliate under the transportation contract. You must use the same value for volumes

that exceed the over-delivery tolerances, even if those volumes are subject to a lower price under the transportation contract.

(c) Alternatively, you may elect to value your unprocessed gas under this paragraph (c), which allows you to use an index-based valuation method to calculate royalty value. You may not change your election more often than once every two years.

(1)

(i) If you can only transport gas to one index pricing point published in an ONRR-approved publication, available at www.onrr.gov, your value, for royalty purposes, is the published bidweek index price to which your gas may flow for that respective production month.

(ii) If you can transport gas to more than one index pricing point published in an ONRR-approved publication available at www.onrr.gov, your value, for royalty purposes, is the highest of the published bidweek index prices to which your gas may flow for that respective production month, whether or not there are constraints for that production month.

(iii) If there are sequential index pricing points on a pipeline, you must use the first index pricing point at or after your gas enters the pipeline.

(iv) You may adjust the number calculated under paragraphs (c)(1)(i) and (ii) of this section by reducing the value by 20 percent, but not more than 74 cents per MMBtu for sales from the OCS Gulf of America and by 13 percent, but not more than 45 cents per MMBtu, for sales from all other areas.

(v) After you select an ONRR-approved publication available at www.onrr.gov, you may not select a different publication more often than once every two years.

(vi) ONRR may exclude an individual index pricing point found in an ONRR-approved publication if ONRR determines that the index pricing point does not accurately reflect the values of production. ONRR will publish criteria for index pricing points available at www.onrr.gov.

(2) You may not take any other deductions from the value calculated under this paragraph (c).

(d) If some of your gas is used, lost, unaccounted for, or retained as a fee under the terms of a sales or service agreement, that gas will be valued for royalty purposes using the same royalty valuation method for valuing the rest of the gas that you do sell.

(e) If you have no written contract for the sale of gas or no sale of gas subject to this section and:

(1) There is an index pricing point for the gas, then you must value your gas under paragraph (c) of this section; or
(2) There is not an index pricing point for the gas, then:

(i) You must propose to ONRR a method to determine the value using the procedures in § 1206.148(a).

(ii) You may use that method to determine value, for royalty purposes, until ONRR issues its decision.

(iii) After ONRR issues its valuation determination, you must make the adjustments under § 1206.143(a)(2).

(f) Under no circumstances may your gas be valued for royalty purposes less than zero.

(g) If you elect to value your gas under paragraph (c) of this section, ONRR reserves the right to collect actual transaction data in the future to assess the validity of the index-based valuation option.

■ 11. Revise and republish § 1206.142 as follows:

§ 1206.142 How do I calculate royalty value for processed gas that I or my affiliate sell(s) under an arm's-length or non-arm's length contract?

(a) This section applies to the valuation of processed gas, including but not limited to:

(1) Gas that you or your affiliate do not sell, or otherwise dispose of, under an arm's-length contract prior to processing.

(2) Gas where your or your affiliate's arm's-length contract for the sale of gas prior to processing provides for payment to be determined based on the value of any products resulting from processing, including residue gas or natural gas liquids.

(3) Gas that you or your affiliate process under an arm's-length keepwhole contract.

(4) Gas where your or your affiliate's arm's-length contract includes a reservation of the right to process the gas, and you or your affiliate exercise(s) that right.

(b) The value of gas subject to this section, for royalty purposes, is the combined value of the residue gas and all gas plant products that you determine under this section plus the value of any condensate recovered downstream of the point of royalty settlement without resorting to processing that you determine under subpart C of this part less applicable transportation and processing allowances that you determine under this subpart, unless you exercise the option provided in paragraph (d) of this section.

(c) The value of residue gas or any gas plant product under this section for

royalty purposes is the gross proceeds accruing to you or your affiliate under the first arm's-length contract. This value does not apply if you exercise the option provided in paragraph (d) of this section. Unless you exercise the option provided in paragraph (d) of this section, you must use this paragraph (c) to value residue gas or any gas plant product when:

(1) You sell under an arm's-length contract;

(2) You sell or transfer to your affiliate or another person under a non-arm's length contract, and that affiliate or person, or another affiliate of either of them, then sells the residue gas or any gas plant product under an arm's-length contract;

(3) You, your affiliate, or another person sell(s), under multiple arm's length contracts, residue gas or any gas plant products recovered from gas produced from a lease that you value under this paragraph. In that case, because you sold non-arm's-length to your affiliate or another person, the value of the residue gas or any gas plant product is the volume-weighted average of the gross proceeds established under this paragraph for each arm's-length contract for the sale of residue gas or any gas plant products recovered from gas produced from that lease; or

(4) You or your affiliate sell(s) under a pipeline cash-out program. In that case, for over-delivered volumes within the tolerance under a pipeline cash-out program, the value is the price that the pipeline must pay to you or your affiliate under the transportation contract. You must use the same value for volumes that exceed the over-delivery tolerances, even if those volumes are subject to a lower price under the transportation contract.

(d) Alternatively, you may elect to value your residue gas and/or NGLs under this paragraph (d). You may not change your election more often than once every two years.

(1)

(i) If you can only transport residue gas to one index pricing point published in an ONRR-approved publication available at www.onrr.gov, your value, for royalty purposes, is the published bidweek index price to which your gas may flow for that respective production month.

(ii) If you can transport residue gas to more than one index pricing point published in an ONRR-approved publication available at www.onrr.gov, your value, for royalty purposes, is the highest of the published bidweek index prices to which your gas may flow for that respective production month,

whether or not there are constraints for that production month.

(iii) If there are sequential index pricing points on a pipeline, you must use the first index pricing point at or after your residue gas enters the pipeline.

(iv) You may adjust the number calculated under paragraphs (d)(1)(i) and (ii) of this section by reducing the value by 20 percent but not more than 74 cents per MMBtu for sales from the OCS Gulf of America and by 13 percent but not more than 45 cents per MMBtu for sales from all other areas.

(v) After you select an ONRR-approved publication available at www.onrr.gov, you may not select a different publication more often than once every two years.

(vi) ONRR may exclude an individual index pricing point found in an ONRR-approved publication if ONRR determines that the index pricing point does not accurately reflect the values of production. ONRR will publish criteria for index pricing points on www.onrr.gov.

(2)

(i) If you sell NGLs in an area with one or more ONRR-approved commercial price bulletins available at www.onrr.gov, you must choose one bulletin, and your value, for royalty purposes, is the monthly average price for that bulletin for the production month.

(ii) You must reduce the number calculated under paragraph (d)(2)(i) of this section by the amounts that ONRR posts at www.onrr.gov for the geographic location of your lease. The method that ONRR will use to calculate the amounts is set forth in the preamble to this regulation. This method is binding on you and ONRR. ONRR will update the amounts periodically using this method.

(iii) After you select an ONRR-approved commercial price bulletin available at www.onrr.gov, you must not select a different commercial price bulletin more often than once every two years.

(3) You may not take any other deductions from the value calculated under this paragraph (d).

(4) ONRR will post changes to any of the rates in this paragraph (d) on its website.

(e) If some of your gas or gas plant products are used, lost, unaccounted for, or retained as a fee under the terms of a sales or service agreement, that gas will be valued for royalty purposes using the same royalty valuation method for valuing the rest of the gas or gas plant products that you do sell.

(f) If you have no written contract for the sale of gas or no sale of gas subject to this section and:

(1) There is an index pricing point or commercial price bulletin for the gas, then you must value your gas under paragraph (d) of this section.

(2) There is not an index pricing point or commercial price bulletin for the gas, then:

(i) You must propose to ONRR a method to determine the value using the procedures in § 1206.148(a).

(ii) You may use that method to determine value, for royalty purposes, until ONRR issues our decision.

(iii) After ONRR issues its valuation determination, you must make the adjustments under § 1206.143(a)(2).

(g) Under no circumstances may your gas be valued for royalty purposes less than zero.

(h) If you elect to value your gas under paragraph (d) of this section, ONRR reserves the right to collect actual transaction data in the future to assess the validity of the index-based valuation option.

■ 12. Revise and republish § 1206.143 as follows:

§ 1206.143 How will ONRR determine if my royalty payments are correct?

(a)

(1) ONRR may monitor, review, and audit the royalties that you report. If ONRR determines that your reported value is inconsistent with the requirements of this subpart, ONRR will direct you to use a different measure of royalty value.

(2) If ONRR directs you to use a different royalty value, you must either pay any additional royalties due, plus late payment interest calculated under §§ 1218.54 and 1218.102 of this chapter, or report a credit for, or request a refund of, any overpaid royalties.

(b) ONRR may examine whether your or your affiliate's contract reflects the total consideration transferred for Federal gas, either directly or indirectly, from the buyer to you or your affiliate. If ONRR determines that additional consideration beyond that reflected in the contract was transferred, or that any portion of the consideration was not included in gross proceeds reported, ONRR may establish a reasonable royalty value based on other relevant criteria.

(c) ONRR may direct you to use a different measure of royalty value if ONRR determines that the gross proceeds accruing to you or your affiliate under a contract do not reflect reasonable consideration because:

(1) There is misconduct by or between the contracting parties;

(2) You have breached your duty to market the gas, residue gas, or gas plant products for the mutual benefit of yourself and the lessor by selling your gas, residue gas, or gas plant products at a value that is unreasonably low. ONRR may consider a sales price unreasonably low if it is 10 percent less than the lowest reasonable measures of market price, including, but not limited to, index prices and prices reported to ONRR for like-quality gas, residue gas, or gas plant products; or

(3) ONRR cannot determine if you properly valued your gas, residue gas, or gas plant products under § 1206.141 or § 1206.142 for any reason, including, but not limited to, your or your affiliate's failure to provide documents that ONRR requests under 30 CFR part 1212, subpart B.

(d) You have the burden of demonstrating that your or your affiliate's contract is arm's-length.

(e) ONRR may require you to certify that the provisions in your or your affiliate's contract include(s) all the consideration that the buyer paid to you or your affiliate, either directly or indirectly, for the gas, residue gas, or gas plant products.

(f)

(1) Absent contract revision or amendment, if you or your affiliate fail(s) to take proper or timely action to receive prices or benefits to which you or your affiliate are entitled, you must pay royalty based upon that obtainable price or benefit.

(2) If you or your affiliate make timely application for a price increase or benefit allowed under your or your affiliate's contract, but the purchaser refuses, and you or your affiliate take reasonable, documented measures to force purchaser compliance, you will not owe additional royalties unless or until you or your affiliate receive additional monies or consideration resulting from the price increase. You may not construe this paragraph to permit you to avoid your royalty payment obligation in situations where a purchaser fails to pay, in whole or in part, or in a timely manner, for a quantity of gas, residue gas, or gas plant products.

(g)

(1) You or your affiliate must make all contracts, contract revisions, or amendments in writing, and all parties to the contract must sign the contract, contract revisions, or amendments.

(2) If you or your affiliate fail(s) to comply with paragraph (g)(1) of this section, ONRR may direct you to use a different measure of royalty value.

(3) This provision applies notwithstanding any other provisions in this title 30 to the contrary.

■ 13. Remove and reserve § 1206.144.

§ 1206.144 [Removed and Reserved]

■ 14. Amend § 1206.146 to add paragraph (c) as follows:

§ 1206.146 What are my responsibilities to place production into marketable condition and to market production?

* * * * *

(c) Your gas or gas plant products are in marketable condition when it meets the required quality specifications for either:

(1) Delivery to a Mainline Pipeline. If your gas or gas plant products are delivered to a mainline pipeline that transports gas to market, it must meet the quality specifications set by that pipeline operator. This is typically the specifications required for delivery at the outlet of a gas processing plant;

(2) Delivery other than Mainline Pipeline. If your gas or gas plant products are delivered to market by means other than through a mainline pipeline, then your gas is in marketable condition when it meets the specifications required by the receiving transporter or purchaser; or

(3) Alternative Market for Unprocessed Gas. If your gas is never processed and you can reasonably support that a market exists at another location, you can use the quality specifications required at that alternative delivery point.

■ 15. Amend § 1206.152 by:

■ a. revising paragraph (a)(2);

■ b. removing paragraphs (a)(2)(i) and (ii); and

■ c. revising paragraphs (g) introductory text and (g)(2).

The revisions read as follows:

§ 1206.152 What general transportation allowance requirements apply to me?

(a) * * *

(2) The movement to the sales point is not gathering.

* * * * *

(g) ONRR may direct you to modify your transportation allowance if:

(1) * * *

(2) ONRR determines that the consideration that you or your affiliate paid under an arm's-length transportation contract does not reflect the reasonable cost of the transportation because you breached your duty to market the gas, residue gas, or gas plant products for the mutual benefit of yourself and the lessor; or

* * * * *

■ 16. Revise and republish § 1206.153 as follows:

The revisions read as follows:

§ 1206.153 How do I determine a transportation allowance if I have an arm's-length transportation contract?

(a)

(1) If you or your affiliate incur transportation costs under an arm's-length transportation contract, you may claim a transportation allowance for the reasonable, actual costs incurred, as more fully explained in paragraph (b) of this section, except as provided in § 1206.152(g) and subject to the limitation in § 1206.152(e).

(2) You must be able to demonstrate that your or your affiliate's contract is arm's-length.

(b) Subject to the requirements of paragraph (c) of this section, you may include, but are not limited to, the following costs to determine your transportation allowance under paragraph (a) of this section; you may not use any cost as a deduction that duplicates all or part of any other cost that you use under this section:

(1) *Firm demand charges paid to pipelines.* You may deduct firm demand charges or capacity reservation fees that you or your affiliate paid to a pipeline, including charges or fees for unused firm capacity that you or your affiliate have not sold before you report your allowance. If you or your affiliate receive(s) a payment from any party for release or sale of firm capacity after reporting a transportation allowance that included the cost of that unused firm capacity, or if you or your affiliate receive(s) a payment or credit from the pipeline for penalty refunds, rate case refunds, or other reasons, you must reduce the firm demand charge claimed on Form ONRR-2014 by the amount of that payment. You must modify Form ONRR-2014 by the amount received or credited for the affected reporting period and pay any resulting royalty due, plus late payment interest calculated under §§ 1218.54 and 1218.102 of this chapter.

(2) *Gas Supply Realignment (GSR) costs.* The GSR costs result from a pipeline reforming or terminating supply contracts with producers in order to implement the restructuring requirements of FERC Orders in 18 CFR part 284.

(3) *Commodity charges.* The commodity charge allows the pipeline to recover the costs of providing service.

(4) *Wheeling costs.* Hub operators charge a wheeling cost for transporting gas from one pipeline to either the same or another pipeline through a market center or hub. A hub is a connected manifold of pipelines through which a series of incoming pipelines are

interconnected to a series of outgoing pipelines.

(5) *Gas Research Institute (GRI) fees.* The GRI conducts research, development, and commercialization programs on natural gas-related topics for the benefit of the U.S. gas industry and gas customers. GRI fees are allowable, provided that such fees are mandatory in FERC-approved tariffs.

(6) *Annual Charge Adjustment (ACA) fees.* FERC charges these fees to pipelines to pay for its operating expenses.

(7) *Payments (either volumetric or in value) for actual or theoretical losses.* Theoretical losses are not deductible in transportation arrangements unless the transportation allowance is based on arm's-length transportation rates charged under a FERC or State regulatory-approved tariff. If you or your affiliate receive(s) volumes or credit for line gain, you must reduce your transportation allowance accordingly and pay any resulting royalties plus late payment interest calculated under §§ 1218.54 and 1218.102 of this chapter.

(8) *Temporary storage services.* This includes short-duration storage services that market centers or hubs (commonly referred to as "parking" or "banking") offer or other temporary storage services that pipeline transporters provide, whether actual or provided as a matter of accounting. Temporary storage is limited to 30 days or fewer.

(9) *Supplemental costs for compression, dehydration, and treatment of gas.* ONRR allows these costs only if such services are required for transportation and exceed the services necessary to place production into marketable condition required under § 1206.146.

(10) *Costs of surety.* You may deduct the costs of securing a letter of credit, or other surety, that the pipeline requires you or your affiliate, as a shipper, to maintain under a transportation contract.

(11) *Hurricane surcharges.* You may deduct hurricane surcharges that you or your affiliate actually pay(s).

(12) *Flow assurance costs.* You may deduct costs associated with ensuring the flow of gas through a pipeline. This includes, but is not limited to, flow assurance chemicals, pipeline pigging equipment, and heated pipelines. This does not include the cost of operations required for producing gas, such as, but not limited to, chemicals injected into the wellbore to bring production to the surface.

(13) *OCS platform costs.* You may deduct costs directly allocable to:

(i) Services described in paragraph (9) of this section.

(ii) Flow assurance as described in paragraph (12) of this section.

(iii) Platform space required to house equipment in paragraphs (i) and (ii) of this section.

(iv) Platform buoyancy required to support the weight of equipment in (i), (ii), and (iii).

(14) *Costs to repair, replace, or restore operability of a plugged or damaged pipeline.* You may deduct your reasonable actual costs for repairing, replacing, or restoring operability of a plugged or damaged pipeline. If you receive insurance compensation, you must reduce your allowance by the compensation received.

(c) You may not include the following costs to determine your transportation allowance under paragraph (a) of this section:

(1) *Fees or costs incurred for storage.* This includes storing production in a storage facility, whether on or off of the lease, for more than 30 days.

(2) *Aggregator/marketer fees.* This includes fees that you or your affiliate pay(s) to another person (including your affiliates) to market your gas, including purchasing and reselling the gas or finding or maintaining a market for the gas production.

(3) *Penalties that you or your affiliate incur(s) as a shipper.* These penalties include, but are not limited to:

(i) *Over-delivery cash-out penalties.* This includes the difference between the price that the pipeline pays to you or your affiliate for over-delivered volumes outside of the tolerances and the price that you or your affiliate receive(s) for over-delivered volumes within the tolerances.

(ii) *Scheduling penalties.* This includes penalties that you or your affiliate incur(s) for differences between daily volumes delivered into the pipeline and volumes scheduled or nominated at a receipt or delivery point.

(iii) *Imbalance penalties.* This includes penalties that you or your affiliate incur(s) (generally on a monthly basis) for differences between volumes delivered into the pipeline and volumes scheduled or nominated at a receipt or delivery point.

(iv) *Operational penalties.* This includes fees that you or your affiliate incur(s) for violation of the pipeline's curtailment or operational orders issued to protect the operational integrity of the pipeline.

(4) *Intra-hub transfer fees.* These are fees that you or your affiliate pay(s) to hub operators for administrative services (such as title transfer tracking) necessary to account for the sale of gas within a hub.

(5) *Fees paid to brokers.* This includes fees that you or your affiliate pay(s) to parties who arrange marketing or transportation, if such fees are separately identified from aggregator/marketer fees.

(6) *Fees paid to scheduling service providers.* This includes fees that you or your affiliate pay(s) to parties who provide scheduling services, if such fees are separately identified from aggregator/marketer fees.

(7) *Internal costs.* This includes salaries and related costs, rent/space costs, office equipment costs, legal fees, and other costs to schedule, nominate, and account for the sale or movement of production.

(8) *Other non-allowable costs.* Any cost you or your affiliate incur(s) for services that you are required to provide at no cost to the lessor, including, but not limited to, costs to place your gas, residue gas, or gas plant products into marketable condition disallowed under § 1206.146 and costs of boosting residue gas disallowed under § 1202.151(b) of this chapter.

(9) Any OCS platform costs not included in paragraph (b)(13) of this section.

(d) If you have no written contract for the arm's-length transportation of gas, and neither you nor your affiliate perform your own transportation, you must propose to ONRR a method to determine the transportation allowance using the procedures in § 1206.148(a). You may use that method to determine your allowance until ONRR issues its valuation determination.

■ 17. Revise and republish § 1206.154 as follows:

§ 1206.154 How do I determine a transportation allowance if I have a non-arm's-length transportation contract?

(a) This section applies if you or your affiliate do(es) not have an arm's-length transportation contract, including situations where you or your affiliate provide your own transportation services. You must calculate your transportation allowance based on your or your affiliate's reasonable, actual costs for transportation during the reporting period using the procedures prescribed in this section.

(b) Your or your affiliate's actual costs may include:

(1) Operating expenses under (f) of this section.

(2) Overhead under paragraph (g) of this section.

(3) Either:

(i) Depreciation expense and a return on undepreciated capital costs under paragraph (i) of this section, or

(ii) A cost equal to a return on the initial undepreciated capital cost of the

transportation system under paragraph (j) of this section.

(iii) Once you have elected to use either method for a transportation system, you may not later elect to change to the other alternative without ONRR's approval. If ONRR accepts your request to change methods, you may use your changed method beginning with the production month following the month when ONRR received your change request.

(4) The reporting period when you do not have an arm's-length transportation contract is the reporting month following the production month.

(c) To the extent not included in costs identified in paragraphs (e) through (g) of this section, if you or your affiliate incur(s) actual costs under your or your affiliate's non-arm's-length contract, you may include those costs in your calculations under this section:

(1) The actual transportation costs listed under § 1206.153(b)(2), (5), (6), (9), (12), and (14) of this subpart.

(2) Only OCS platform costs directly allocable to the following:

(i) Services described in § 1206.153(b)(9) of this section.

(ii) Flow assurance as described in § 1206.153(b)(12).

(iii) Platform space required to house equipment in paragraphs (i) and (ii) of this section.

(iv) Platform buoyancy required to support the weight of equipment in (i), (ii), and (iii).

(d) You may not include in your transportation allowance:

(1) Any of the non-allowable costs listed under § 1206.153(c).

(2) Fees paid (either in volume or in value) for actual or theoretical line losses.

(3) Any cost as a deduction that duplicates all or part of any other cost that you use under this section.

(e) Allowable capital costs are those for fixed assets that are an integral part of the transportation system.

(f) Allowable operating expenses include the following:

(1) Operations supervision and engineering

(2) Operations labor

(3) Fuel

(4) Utilities

(5) Materials

(6) Ad valorem property taxes

(7) Rent

(8) Supplies

(9) Maintenance

(10) Maintenance labor

(11) Any other directly allocable and attributable operating expense that you can document

(g) Overhead directly attributable and allocable to the operation and

maintenance of the transportation system is an allowable expense.

(h) State and Federal income taxes and severance taxes and other fees, including royalties, are not allowable expenses.

(i) To calculate depreciation expense and a return on undepreciated capital costs:

(1) Depreciation and a return on undepreciated capital costs are calculated from the in-service date.

(i) If you or prior owners never claimed an allowance that included depreciation expense and a return from undepreciated capital costs or a return on initial undepreciated capital costs for a fixed asset, you may propose an alternative in-service date under (i)(4) of this section.

(ii) The alternative in-service date must not extend beyond the in-service date as extended by the shorter of the useful life and the life of the reserve.

(iii) You may not select the unit-of-production method when applying an alternative in-service date.

(iv) The application of an alternative in-service date does not change the useful life or life of the reserve.

(2) You may elect to use either a straight-line depreciation method or you may elect to use a unit-of-production method to calculate depreciation expense except when the alternative in-service date is applied under paragraph (i)(1)(i) of this section.

(i) Depreciation expense using the straight-line depreciation method is the rate of depreciation from the in-service date through the end of the useful life or life of the reserves under the first-of-month convention.

(ii) Depreciation expense using the units-of-production depreciation method is the product of the rate of depreciation and the units of output produced in the reporting period.

(iii) You may choose to apply these depreciation methods individually to each fixed asset or group of fixed assets.

(iv) After you make an election, you may not change methods without ONRR's approval. If ONRR accepts your request to change methods, you may use your changed method beginning with the production month following the month when ONRR received your change request.

(3) Lessees may include allowable depreciation expense for acquired fixed assets as part of a transportation allowance. If you have a depreciation schedule that the original transporter/lessee established in compliance with 30 CFR part 1206 for purposes of the allowance calculation, a change in ownership of a transportation system

will not alter that depreciation schedule.

(4) Proposing a depreciation schedule to ONRR:

(i) If no depreciation schedule under 30 CFR part 1206 exists or has existed for an in-service fixed asset, you may propose to ONRR a depreciation schedule for your transportation allowance.

(ii) If the depreciation schedule for an in-service fixed asset does not comply with 30 CFR part 1206, you may propose to ONRR a depreciation schedule for your transportation allowance.

(iii) ONRR will consider the following factors when reviewing a proposed depreciation schedule for approval:

(A) The lessee's or a prior owner's published capitalization policy, depreciation policy, fixed asset useful life policy, and any related policies in effect during the applicable period, when provided by the proposing lessee;

(B) Consistency with audited financial statements that have been prepared in accordance with generally accepted accounting principles in the United States ("U.S. GAAP"), when supporting records and reconciliations are provided by the proposing lessee;

(C) Documents prepared in support of the recording and capitalization of fixed assets under U.S. GAAP, when provided by the proposing lessee;

(D) Purchase price allocation reports prepared in accordance with U.S. GAAP by independent experts, when provided by the proposing lessee;

(E) Practices typical of the industry; and

(F) Any information that ONRR deems relevant regarding the depreciation schedule.

(5) You may depreciate a transportation system only once with or without a change in ownership.

(6) To calculate the return on undepreciated capital cost:

(i) You may use an amount equal to the undepreciated capital cost of the transportation system at the beginning of the reporting period multiplied by the rate of return that you determine under paragraph (k) of this section.

(ii) After you have depreciated a transportation system to the reasonable salvage value, you may thereafter include in the allowance calculation a cost equal to the reasonable salvage value multiplied by a rate of return under paragraph (k) of this section.

(j) As an alternative to using depreciation expense and a return on undepreciated capital cost, as provided under paragraph (b)(3) of this section, you may use as a cost an amount equal to the allowable initial capital cost of

the transportation system multiplied by the rate of return determined under paragraph (k) of this section. You may not include depreciation in your allowance.

(k) The rate of return is the industrial rate associated with Standard & Poor's BBB rating.

(1) You must use the monthly average BBB rate that Standard & Poor's publishes for the first month for which the allowance is applicable.

(2) You must re-determine the rate at the beginning of each subsequent calendar year.

■ 18. Amend § 1206.159 by revising paragraph (e) as follows:

§ 1206.159 What general processing allowances requirements apply to me?

* * * * *

(e) ONRR may direct you to modify your processing allowance if:

(1) * * *

(2) ONRR determines that the consideration that you or your affiliate paid under an arm's-length processing contract does not reflect the reasonable cost of the processing because you breached your duty to market the gas, residue gas, or gas plant products for the mutual benefit of yourself and the lessor; or

(3) ONRR cannot determine if you properly calculated a processing allowance under § 1206.160 or § 1206.161 for any reason, including, but not limited to, your or your affiliate's failure to provide documents that ONRR requests under 30 CFR part 1212, subpart B.

■ 19. Revise and republish § 1206.160 as follows:

§ 1206.160 How do I determine a processing allowance if I have an arm's-length processing contract?

(a)

(1) If you or your affiliate incur processing costs under an arm's-length processing contract, you may claim a processing allowance for the reasonable, actual costs incurred, as more fully explained in paragraph (b) of this section, except as provided in § 1206.159(e) and subject to the limitation in § 1206.159(c)(2).

(2) You must be able to demonstrate that your or your affiliate's contract is arm's-length.

(b)

(1) If your or your affiliate's arm's-length processing contract includes more than one gas plant product, and you can determine the processing costs for each product based on the contract, then you must determine the processing costs for each gas plant product under the contract.

(2) If your or your affiliate's arm's-length processing contract includes more than one gas plant product, and you cannot determine the processing costs attributable to each product from the contract, you must propose an allocation procedure to ONRR.

(i) You may use your proposed allocation procedure until ONRR issues its determination.

(ii) You must submit all relevant data to support your proposal.

(iii) ONRR will determine the processing allowance based upon your proposal and any additional information that ONRR deems necessary.

(iv) You must submit the allocation proposal within three months of claiming the allocated deduction on Form ONRR-2014.

(3) You may not take an allowance for the costs of processing lease production that is not royalty-bearing.

(4) If your or your affiliate's payments for processing under an arm's-length contract are not based on a dollar-per-unit basis, you must convert whatever consideration that you or your affiliate paid to a dollar-value equivalent.

(c) If you have no written contract for the arm's-length processing of gas and neither you nor your affiliate perform your own processing, you must propose to ONRR a method to determine the processing allowance using the procedures in § 1206.148(a). You may use that method to determine your allowance until ONRR issues its valuation determination.

■ 20. Revise and republish § 1206.161 as follows:

§ 1206.161 How do I determine a processing allowance if I have a non-arm's-length processing contract?

(a) This section applies if you or your affiliate do(es) not have an arm's-length processing contract, including situations where you or your affiliate provide your own processing services. You must calculate your processing allowance based on your or your affiliate's reasonable, actual costs for processing during the reporting period using the procedures prescribed in this section.

(b) Your or your affiliate's actual costs may include:

(1) Operating expenses under paragraph (e) of this section.

(2) Overhead under paragraph (f) of this section.

(3) Either:

(i) Depreciation expense and a return on undepreciated capital costs in accordance with paragraph (h)(1) of this section, or

(ii) A cost equal to the initial depreciable capital cost of the processing plant under paragraph (i) of this section.

(iii) Once you have elected to use either method for a processing plant, you may not later elect to change to the other alternative without ONRR's approval. If ONRR accepts your request to change methods, you may use your changed method beginning with the production month following the month when ONRR received your change request.

(4) The reporting period when you do not have an arm's-length processing contract is the reporting month following the production month.

(c) You may not use any cost as a deduction that duplicates all or part of any other cost that you use under this section.

(d) Allowable capital costs are those for fixed assets which are an integral part of the processing plant.

(e) Allowable operating expenses include the following:

- (1) Operations supervision and engineering
- (2) Operations labor
- (3) Fuel
- (4) Utilities
- (5) Materials
- (6) Ad valorem property taxes
- (7) Rent
- (8) Supplies
- (9) Maintenance
- (10) Maintenance labor
- (11) Any other directly allocable and attributable operating expense that you can document

(f) Overhead directly attributable and allocable to the operation and maintenance of the processing plant is an allowable expense.

(g) State and Federal income taxes and severance taxes and other fees, including royalties, are not allowable expenses.

(h) To calculate depreciation expense and a return on undepreciated capital costs:

(1) Depreciation and a return on undepreciated capital costs are calculated from the in-service date.

(i) If you or prior owners never claimed an allowance that included depreciation expense and a return on undepreciated capital costs or a return on initial undepreciated capital costs for a fixed asset, you may propose an alternative in-service date under (h)(4) of this section.

(ii) The alternative in-service date must not extend beyond the in-service date as extended by the shorter of the useful life and the life of the reserve.

(iii) You may not select the unit-of-production method when applying an alternative in-service date.

(iv) The application of an alternative in-service date does not change the useful life or life of the reserve.

(2) You may elect to use either a straight-line depreciation method based on the useful life or on the life of the reserves that the processing plant services or you may elect to use a unit-of-production method except when the alternative in-service date is applied under paragraph (h)(1)(i) of this section.

(i) Depreciation expense using the straight-line depreciation method is the rate of depreciation from the in-service date through the end of the useful life or life of the reserves under the first-of-month convention.

(ii) Depreciation expense using the units-of-production depreciation method is the product of the rate of depreciation and the units of output produced in the reporting period.

(iii) You may choose to apply these depreciation methods individually to each fixed asset or group of fixed assets.

(iv) After you make an election, you may not change methods without ONRR's approval. If ONRR approves your request to change methods, you may use your changed method beginning with the production month following the month when ONRR received your change request.

(3) Lessees may include allowable depreciation expense for acquired fixed assets as part of a processing allowance. If you have a depreciation schedule that the original processor/lessee established in compliance with 30 CFR part 1206 for purposes of the allowance calculation, a change in ownership of a processing system will not alter the depreciation schedule that the original processor/lessee established for purposes of the allowance calculation.

(4) Proposing a depreciation schedule to ONRR:

(i) If no depreciation schedule under 30 CFR part 1206 exists or has existed for an in-service fixed asset, you may propose to ONRR a depreciation schedule for your processing allowance.

(ii) If the depreciation schedule for an in-service fixed asset does not comply with 30 CFR part 1206, you may propose to ONRR a depreciation schedule for your processing allowance.

(iii) ONRR will consider the following factors when reviewing a proposed depreciation schedule for approval:

(A) The lessee's or a prior owner's published capitalization policy, depreciation policy, fixed asset useful life policy, and any related policies in effect during the applicable period, when provided by the proposing lessee;

(B) Consistency with audited financial statements that have been prepared in accordance with generally accepted accounting principles in the United States ("U.S. GAAP"), when supporting

records and reconciliations are provided by the proposing lessee;

(C) Documents prepared in support of the recording and capitalization of fixed assets under U.S. GAAP, when provided by the proposing lessee;

(D) Purchase price allocation reports prepared in accordance with U.S. GAAP by independent experts, when provided by the proposing lessee;

(E) Practices typical of the industry; and

(F) Any information that ONRR deems relevant regarding the depreciation schedule.

(iv) You may use your proposed depreciation schedule to calculate a transportation allowance beginning with the production month following the month when ONRR received your proposal until ONRR accepts or rejects it. If ONRR rejects your proposed depreciation schedule, you must amend your Form ONRR-2014 for the months that you used the rejected method and pay any additional royalty due, plus late payment interest.

(5) You may depreciate a processing plant only once with or without a change in ownership.

(6) To calculate a return on undepreciated capital cost, you may use an amount equal to the undepreciated capital cost of the processing plant at the beginning of the reporting period multiplied by the rate of return that you determine under paragraph (j) of this section.

(i) After you have depreciated a processing plant to its reasonable salvage value, you may thereafter include in the allowance calculation a cost equal to the reasonable salvage value multiplied by a rate of return under paragraph (j) of this section.

(ii) You may use as a cost an amount equal to the allowable initial cost of the processing plant multiplied by the rate of return determined under paragraph (j) of this section. You may not include depreciation in your allowance.

(j) The rate of return is the industrial rate associated with Standard & Poor's BBB rating.

(1) You must use the monthly average BBB rate that Standard & Poor's publishes for the first month for which the allowance is applicable.

(2) You must re-determine the rate at the beginning of each subsequent calendar year.

(k)

(1) You must determine the processing allowance for each gas plant product based on your or your affiliate's reasonable and actual cost of processing the gas. You must base your allocation of costs to each gas plant product upon

generally accepted accounting principles.

(2) You may not take an allowance for processing lease production that is not royalty-bearing.

(l) You may apply for an exception from the requirement to calculate actual costs under paragraphs (a) and (b) of this section.

(1) ONRR will grant the exception if:

(i) You have or your affiliate has arm's-length contracts for processing other gas production at the same processing plant; and

(ii) At least 50 percent of the gas processed annually at the plant is processed under arm's-length processing contracts.

(2) If ONRR grants the exception, you must use as your processing allowance the volume-weighted average prices charged to other persons under arm's-length contracts for processing at the same plant.

■ 21. Revise and republish § 1206.251 as follows:

§ 1206.251 Definitions.

The definitions in § 1206.20 do not apply to this subpart. For purposes of this subpart:

Actual cost means a cost incurred by a lessee. Actual costs do not include imputed costs, theoretical costs, or avoided costs.

Ad valorem lease means a lease where the royalty due to the lessor is based upon a percentage of the amount or value of the coal.

Allowance means a deduction used in determining value for royalty purposes. Coal washing allowance means an allowance for the reasonable, actual costs incurred by the lessee for coal washing. Transportation allowance means an allowance for the reasonable, actual costs incurred by the lessee for moving coal to a point of sale or point of delivery remote from both the lease and mine or wash plant.

Alternative in-service date means the date selected under § 1206.112(i)(1)(i) for Federal oil, § 1206.154(i)(1)(i) or § 1206.161(h)(1)(i) for Federal gas, or § 1206.259(b)(2)(v)(B)(1) or § 1206.262(b)(2)(v)(B)(1) for Federal coal. The term "alternative in-service date" has no meaning outside of the commodities and regulations mentioned.

Area means a geographic region in which coal has similar quality and economic characteristics. Area boundaries are not officially designated and the areas are not necessarily named.

Arm's-length contract means:

(1) A contract or agreement that has been arrived at in the marketplace between independent, nonaffiliated

persons with opposing economic interests regarding that contract. For purposes of this subpart, two persons are affiliated if one person controls, is controlled by, or is under common control with another person. For purposes of this subpart, based on the instruments of ownership of the voting securities of an entity, or based on other forms of ownership:

(i) Ownership in excess of 50 percent constitutes control;

(ii) Ownership of 10 through 50 percent creates a presumption of control; and

(iii) Ownership of less than 10 percent creates a presumption of noncontrol which ONRR may rebut if it demonstrates actual or legal control, including the existence of interlocking directorates.

(2) Notwithstanding any other provisions of this subpart, contracts between relatives, either by blood or by marriage, are not arm's-length contracts. The ONRR may require the lessee to certify ownership control. To be considered arm's-length for any production month, a contract must meet the requirements of this definition for that production month as well as when the contract was executed.

Audit means a review, conducted in accordance with generally accepted accounting and auditing standards, of royalty payment compliance activities of lessees or other interest holders who pay royalties, rents, or bonuses on Federal leases.

BLM means the Bureau of Land Management of the Department of the Interior.

Capital cost means the actual cost associated with the initial purchase of a fixed asset with a useful life greater than one year. Non-routine, major overhauls, repairs, maintenance, or upgrades of fixed assets that extend the useful life of the asset or increase its functionality are also capital costs when their economic benefits extend beyond one year. Capital costs include those costs reasonable and necessary to bring the fixed asset to the condition and location of its intended use, such as shipping, delivery, and installation cost. The capital cost of a fixed asset reflects its value when measured at the in-service date.

Coal means coal of all ranks from lignite through anthracite.

Coal washing means any treatment to remove impurities from coal. Coal washing may include, but is not limited to, operations such as flotation, air, water, or heavy media separation; drying; and related handling (or combination thereof).

Contract means any oral or written agreement, including amendments or

revisions thereto, between two or more persons and enforceable by law that with due consideration creates an obligation.

Depreciation means the systematic and rational allocation of the capital cost less a reasonable salvage value of a fixed asset to expense during periods when economic benefits are available to obtain from the fixed asset. Depreciation begins at the in-service date.

Depreciation schedule means a document used to record and track depreciation for a fixed asset under 30 CFR part 1206. A depreciation schedule includes a list of fixed assets that can be separately identified. Each fixed asset entry must include the capital cost, the in-service date, the method of depreciation elected, the salvage value, and either the useful life, units of production, or life of reserve. For fixed assets depreciated as a group, the depreciation schedule demonstrates, or allows for the calculation of, either the group's useful life, units of production, or life of the reserve. The depreciation schedule includes, or allows for the calculation of, depreciation expense during the reporting period and the undepreciated capital cost.

First-of-month convention means that depreciation begins on the first day of the month of the in-service date or alternative in-service date.

Fixed assets means tangible assets owned or controlled by a lessee that are used to produce or provide goods and services in the primary business activities of that entity. Fixed assets have a useful life greater than one year.

Gross proceeds (for royalty payment purposes) means the total monies and other consideration accruing to a coal lessee for the production and disposition of the coal produced. Gross proceeds includes, but is not limited to, payments to the lessee for certain services such as crushing, sizing, screening, storing, mixing, loading, treatment with substances including chemicals or oils, and other preparation of the coal to the extent that the lessee is obligated to perform them at no cost to the Federal Government. Gross proceeds, as applied to coal, also includes but is not limited to reimbursements for royalties, taxes or fees, and other reimbursements. Tax reimbursements are part of the gross proceeds accruing to a lessee even though the Federal royalty interest may be exempt from taxation. Monies and other consideration, including the forms of consideration identified in this paragraph, to which a lessee is contractually or legally entitled but which it does not seek to collect through

reasonable efforts are also part of gross proceeds.

In-service date means the earlier of the date when a fixed asset is placed in service or the date when a fixed asset is functionally ready and available for its intended use. When considering a group of fixed assets, the group in-service date is the in-service date for the primary functional fixed asset of the group.

Life of the reserve means the estimated term over which the natural reserve provides an economic benefit. A life of the reserve estimate is based on a report from an unaffiliated or independent expert and clearly identify the assumptions supporting the estimate. If a fixed asset services multiple reserves, the life of the reserve represents the average of the individual reserve life estimates. Life of the reserve is measured in, or is convertible into, months and is determined at or prior to the in-service date.

Lease means any contract, profit-share arrangement, joint venture, or other agreement issued or approved by the United States for a Federal coal resource under a mineral leasing law that authorizes exploration for, development or extraction of, or removal of coal—or the land covered by that authorization, whichever is required by the context.

Lessee means any person to whom the United States issues a lease, and any person who has been assigned an obligation to make royalty or other payments required by the lease. This includes any person who has an interest in a lease as well as an operator or payor who has no interest in the lease but who has assumed the royalty payment responsibility.

Like-quality coal means coal that has similar chemical and physical characteristics.

Marketable condition means coal that is sufficiently free from impurities and otherwise in a condition that it will be accepted by a purchaser under a sales contract typical for that area.

Mine means an underground or surface excavation or series of excavations and the surface or underground support facilities that contribute directly or indirectly to mining, production, preparation, and handling of lease products.

Net-back method means a method for calculating market value of coal at the lease or mine. Under this method, costs of transportation, washing, handling, etc., are deducted from the ultimate proceeds received for the coal at the first point at which reasonable values for the coal may be determined by a sale pursuant to an arm's-length contract or by comparison to other sales of coal, to ascertain value at the mine.

Net output means the quantity of washed coal that a washing plant produces.

Netting is the deduction of an allowance from the sales value by reporting a one line net sales value, instead of correctly reporting the deduction as a separate line item on the Form ONRR-4430.

Operating Expense means costs associated with the production or provision of goods and services by a business. Operating expenses are costs necessary for the company's normal, core business activities.

Overhead means the indirect costs of producing or providing goods and services. Overhead must be systematically and rationally allocated to the goods or services being produced or provided. Overhead is a cost necessary for the company's normal, core business activities.

Person means by individual, firm, corporation, association, partnership, consortium, or joint venture.

Reserve means the estimated quantity of known accumulations of a natural resource anticipated to be commercially recoverable from a defined area under existing economic conditions and by established operating practices from a given date forward.

Sales type code means the contract type or general disposition (e.g., arm's-length or non-arm's-length) of production from the lease. The sales type code applies to the sales contract, or other disposition, and not to the arm's-length or non-arm's-length nature of a transportation or washing allowance.

Salvage value means the value net of disposal costs that the payor expects to realize at the end of the useful life of an asset. Salvage values are designed to minimize any gain or loss at the time of disposal. Salvage value is greater than or equal to zero. Salvage value is determined at or prior to the in-service date.

Spot market price means the price received under any sales transaction when planned or actual deliveries span a short period of time, usually not exceeding one year.

Straight-line depreciation method means a method of depreciation that allocates capital costs evenly over the useful life of an asset or the life of the reserve. The rate of depreciation applicable to the reporting period under this method is determined by dividing the capital cost by the useful life of the fixed asset or the life of the reserve.

Unit-of-production depreciation method means a method of depreciation that allocates capital cost based on the fixed asset's designed specifications and

output parameters. The rate of depreciation applicable to the reporting period under this method is determined by dividing the capital cost by the units of production for which the fixed asset was designed.

Units of production means the machine-hours for which an asset was designed to operate or the units of output that an asset was designed to produce. The units of production for a group of fixed assets are the capital-cost-weighted average units of production of the fixed assets comprising the group. Units of production are determined at or prior to the in-service date.

Useful life means the term over which the asset provides an economic benefit. If a useful life is applied to a group of fixed assets, it represents the capital-cost-weighted average useful life of the fixed assets comprising the group. Useful life is measured in, or is convertible into, months and is determined at or prior to the in-service date.

■ 22. Revise and republish § 1206.259 as follows:

§ 1206.259 Determination of washing allowances.

(a) *Arm's-length contracts.*

(1) For washing costs incurred by a lessee under an arm's-length contract, the washing allowance shall be the reasonable actual costs incurred by the lessee for washing the coal under that contract, subject to monitoring, review, audit, and possible future adjustment. The lessee shall have the burden of demonstrating that its contract is arm's-length. ONRR's prior approval is not required before a lessee may deduct costs incurred under an arm's-length contract. The lessee must claim a washing allowance by reporting it as a separate line entry on the Form ONRR-4430.

(2) In conducting reviews and audits, ONRR will examine whether the contract reflects more than the consideration actually transferred either directly or indirectly from the lessee to the washer for the washing. If the contract reflects more than the total consideration paid, then the ONRR may require that the washing allowance be determined in accordance with paragraph (b) of this section.

(3) If ONRR determines that the consideration paid pursuant to an arm's-length washing contract does not reflect the reasonable value of the washing because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then ONRR shall require that

the washing allowance be determined in accordance with paragraph (b) of this section. When ONRR determines that the value of the washing may be unreasonable, ONRR will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's washing costs.

(4) Where the lessee's payments for washing under an arm's-length contract are not based on a dollar-per-unit basis, the lessee shall convert whatever consideration is paid to a dollar value equivalent. Washing allowances shall be expressed as a cost per ton of coal washed.

(b) *Non-arm's-length or no contract.*

(1) If a lessee has a non-arm's-length contract or has no contract, including those situations where the lessee performs washing for itself, the washing allowance will be based upon the lessee's reasonable actual costs. All washing allowances deducted under a non-arm's-length or no contract situation are subject to monitoring, review, audit, and possible future adjustment. The lessee must claim a washing allowance by reporting it as a separate line entry on the Form ONRR-4430. When necessary or appropriate, ONRR may direct a lessee to modify its estimated or actual washing allowance.

(i) The reporting period when you do not have an arm's-length washing contract is the reporting month following the production month.

(ii) You may not use any cost as a deduction that duplicates all or part of any other cost that you use under this section.

(2) The washing allowance for non-arm's-length or no contract situations shall be based upon the lessee's actual costs for washing during the reported period, including operating expenses, overhead, and either depreciation expense and a return on undepreciated capital costs in accordance with paragraph (b)(2)(v) of this section, or a cost equal to the initial capital cost of the wash plant multiplied by the rate of return in accordance with paragraph (b)(2)(vi) of this section. Allowable capital costs are those for fixed assets which are an integral part of the wash plant.

(i) Allowable operating expenses include: operations supervision and engineering; operations labor; fuel; utilities; materials; ad valorem property taxes; rent; supplies; maintenance; maintenance labor; and any other directly allocable and attributable operating expense which the lessee can document.

(ii) Overhead attributable and allocable to the operation and

maintenance of the wash plant is an allowable expense.

(iii) State and Federal income taxes and severance taxes, including royalties, are not allowable expenses.

(iv) A lessee may use either paragraph (b)(2)(v) or (b)(2)(vi) of this section. After a lessee has elected to use either method for a wash plant, the lessee may not later elect to change to the other alternative without approval of the ONRR.

(v) To compute depreciation expense:

(A) The lessee may elect to use either a straight-line depreciation method based on the useful life of equipment or on the life of the reserves which the wash plant services, whichever is appropriate, or a unit-of-production method.

(1) Depreciation expense using the straight-line depreciation method is the rate of depreciation from the in-service date through the end of the useful life or life of the reserves under the first-of-month convention.

(2) Depreciation expense using the units-of-production depreciation method is the product of the rate of depreciation and the units of output produced in the reporting period.

(3) You may choose to apply these depreciation methods individually to each fixed asset or group of fixed assets.

(4) After you make an election, you may not change methods without ONRR's approval. If ONRR approves your request to change methods, you may use your changed method beginning with the production month following the month when ONRR received your change request.

(B) Depreciation and a return on undepreciated capital costs are calculated from the in-service date.

(1) If you or prior owners never claimed an allowance that included depreciation expense and a return from undepreciated capital costs or a return on initial undepreciated capital costs for a fixed asset, you may propose an alternative in-service date under (b)(2)(v)(D).

(2) The alternative in-service date must not extend beyond the in-service date as extended by the shorter of the useful life and the life of the reserve.

(3) You may not select the unit-of-production method when applying an alternative in-service date.

(4) The application of an alternative in-service date does not change the useful life or life of the reserve.

(C) Lessees may include allowable depreciation expense for acquired fixed assets as part of a washing allowance. If you have a depreciation schedule that the original lessee established in compliance with 30 CFR part 1206 for

purposes of the allowance calculation, a change in ownership of a washing system will not alter that depreciation schedule.

(D) Proposing a depreciation schedule to ONRR:

(1) If no depreciation schedule under 30 CFR part 1206 exists or has existed for an in-service fixed asset, you may propose to ONRR a depreciation schedule for your washing allowance.

(2) If the depreciation schedule for an in-service fixed asset does not comply with 30 CFR part 1206, you may propose to ONRR a depreciation schedule for your washing allowance.

(3) ONRR will consider the following factors when reviewing a proposed depreciation schedule for approval: the lessee's or a prior owner's published capitalization policy, depreciation policy, fixed asset useful life policy, and any related policies in effect during the applicable period, when provided by the proposing lessee; consistency with audited financial statements that have been prepared in accordance with generally accepted accounting principles in the United States ("U.S. GAAP"), when supporting records and reconciliations are provided by the proposing lessee; documents prepared in support of the recording and capitalization of fixed assets under U.S. GAAP, when provided by the proposing lessee; purchase price allocation reports prepared in accordance with U.S. GAAP by independent experts, when provided by the proposing lessee; practices typical of the industry; and any information that ONRR deems relevant regarding the depreciation schedule.

(E) With or without a change in ownership, a wash plant is depreciated only once. Equipment will not be depreciated below a reasonable salvage value.

(F) To calculate the return on undepreciated capital cost, you may use an amount equal to the undepreciated capital cost at the beginning of the reporting period of the washing system multiplied by the rate of return that you determine under paragraph (b)(2)(vii) of this section.

(G) After you have depreciated a washing system to the reasonable salvage value, you may thereafter include in the allowance calculation a cost equal to the reasonable salvage value multiplied by a rate of return under paragraph (v) of this section.

(vi) ONRR shall allow as a cost an amount equal to the allowable initial capital cost of the wash plant multiplied by the rate of return determined pursuant to paragraph (b)(2)(vii) of this section. No allowance shall be provided for depreciation. This alternative shall

apply only to plants first placed in service or acquired after March 1, 1989.

(vii) The rate of return must be the industrial rate associated with Standard and Poor's BBB rating. The rate of return must be the monthly average rate as published in Standard and Poor's Bond Guide for the first month for which the allowance is applicable. The rate must be redetermined at the beginning of each subsequent calendar year.

(viii) The washing allowance for coal shall be determined based on the lessee's reasonable and actual cost of washing the coal. The lessee may not take an allowance for the costs of washing lease production that is not royalty bearing.

(c) *Reporting requirements—*

(i) *Arm's-length contracts.*

(1) The lessee must notify ONRR of an allowance based on incurred costs by using a separate line entry on the Form ONRR-4430.

(ii) ONRR may require that a lessee submit arm's-length washing contracts and related documents. Documents shall be submitted within a reasonable time, as determined by ONRR.

(2) *Non-arm's-length or no contract.*

(i) The lessee must notify ONRR of an allowance based on the incurred costs by using a separate line entry on the Form ONRR-4430.

(ii) For new washing facilities or arrangements, the lessee's initial washing deduction shall include estimates of the allowable coal washing costs for the applicable period. Cost estimates shall be based upon the most recently available operations data for the washing system or, if such data are not available, the lessee shall use estimates based upon industry data for similar washing systems.

(iii) Upon request by ONRR, the lessee shall submit all data used to prepare the allowance deduction. The data shall be provided within a reasonable period of time, as determined by ONRR.

(d) *Interest and assessments.*

(1) If a lessee nets a washing allowance on the Form ONRR-4430, then the lessee shall be assessed an amount up to 10 percent of the allowance netted not to exceed \$250 per lease sales type code per sales period.

(2) If a lessee erroneously reports a washing allowance which results in an underpayment of royalties, interest shall be paid on the amount of that underpayment.

(3) Interest required to be paid by this section shall be determined in accordance with § 1218.202 of this subchapter.

(e) *Adjustments.*

(1) If the actual coal washing allowance is less than the amount the

lessee has taken on Form ONRR-4430 for each month during the allowance reporting period, the lessee shall pay additional royalties due plus interest computed under § 1218.202 of this subchapter from the date when the lessee took the deduction to the date the lessee repays the difference to ONRR. If the actual washing allowance is greater than the amount the lessee has taken on Form ONRR-4430 for each month during the allowance reporting period, the lessee shall be entitled to a credit without interest.

(2) The lessee must submit a corrected Form ONRR-4430 to reflect actual costs, together with any payment, in accordance with instructions provided by ONRR.

(f) *Other washing cost determinations.*

The provisions of this section shall apply to determine washing costs when establishing value using a net-back valuation procedure or any other procedure that requires deduction of washing costs.

■ 23. Revise and republish § 1206.262 as follows:

§ 1206.262 Determination of transportation allowances.

(a) *Arm's-length contracts.*

(1) For transportation costs incurred by a lessee pursuant to an arm's-length contract, the transportation allowance shall be the reasonable, actual costs incurred by the lessee for transporting the coal under that contract, subject to monitoring, review, audit, and possible future adjustment. The lessee shall have the burden of demonstrating that its contract is arm's-length. The lessee must claim a transportation allowance by reporting it as a separate line entry on the Form ONRR-4430.

(2) In conducting reviews and audits, ONRR will examine whether the contract reflects more than the consideration actually transferred either directly or indirectly from the lessee to the transporter for the transportation. If the contract reflects more than the total consideration paid, then the ONRR may require that the transportation allowance be determined in accordance with paragraph (b) of this section.

(3) If ONRR determines that the consideration paid pursuant to an arm's-length transportation contract does not reflect the reasonable value of the transportation because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then ONRR shall require that the transportation allowance be determined in accordance with paragraph (b) of this section. When

ONRR determines that the value of the transportation may be unreasonable, ONRR will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's transportation costs.

(4) Where the lessee's payments for transportation under an arm's-length contract are not based on a dollar-per-unit basis, the lessee shall convert whatever consideration is paid to a dollar value equivalent for the purposes of this section.

(b) *Non-arm's-length or no contract.*

(1) If a lessee has a non-arm's-length contract or has no contract, including those situations where the lessee performs transportation services for itself, the transportation allowance will be based upon the lessee's reasonable actual costs. All transportation allowances deducted under a non-arm's-length or no contract situation are subject to monitoring, review, audit, and possible future adjustment. The lessee must claim a transportation allowance by reporting it as a separate line entry on the Form ONRR-4430. When necessary or appropriate, ONRR may direct a lessee to modify its estimated or actual transportation allowance deduction.

(i) The reporting period when you do not have an arm's-length transportation contract is the reporting month following the production month.

(ii) You may not use any cost as a deduction that duplicates all or part of any other cost that you use under this section.

(2) The transportation allowance for non-arm's-length or no-contract situations shall be based upon the lessee's actual costs for transportation during the reporting period, including operating expenses, overhead, and either depreciation expense and a return on undepreciated capital costs in accordance with paragraph (b)(2)(v) of this section, or a cost equal to the initial capital costs of the transportation system multiplied by the rate of return in accordance with paragraph (b)(2)(vi) of this section. Allowable capital costs are those for fixed assets which are an integral part of the transportation system.

(i) Allowable operating expenses include: operations supervision and engineering; operations labor; fuel; utilities; materials; ad valorem property taxes; rent; supplies; maintenance; maintenance labor; and any other directly allocable and attributable operating expense which the lessee can document.

(ii) Overhead attributable and allocable to the operation and

maintenance of the transportation system is an allowable expense.

(iii) State and Federal income taxes and severance taxes and other fees, including royalties, are not allowable expenses.

(iv) A lessee may use either paragraph (b)(2)(v) or (b)(2)(vi) of this section.

After a lessee has elected to use either method for a transportation system, the lessee may not later elect to change to the other alternative without approval of ONRR.

(v) To compute depreciation expense:

(A) The lessee may elect to use either a straight-line depreciation method based on the useful life of equipment or on the life of the reserves which the transportation system services, whichever is appropriate, or a unit of production method.

(1) Depreciation expense using the straight-line depreciation method is the rate of depreciation from the in-service date through the end of the useful life or life of the reserves under the first-of-month convention.

(2) Depreciation expense using the units-of-production depreciation method is the product of the rate of depreciation and the units of output produced in the reporting period.

(3) You may choose to apply these depreciation methods individually to each fixed asset or group of fixed assets.

(4) After you make an election, you may not change methods without ONRR's approval. If ONRR accepts your request to change methods, you may use your changed method beginning with the production month following the month when ONRR received your change request.

(B) Depreciation and a return on undepreciated capital costs are calculated from the in-service date.

(1) If you or prior owners never claimed an allowance that included depreciation expense and a return from undepreciated capital costs or a return on initial undepreciated capital costs for a fixed asset, you may propose an alternative in-service date under (b)(2)(v)(D) of this section.

(2) The alternative in-service date must not extend beyond the in-service date as extended by the shorter of the useful life and the life of the reserve.

(3) You may not select the unit-of-production method when applying an alternative in-service date.

(4) The application of an alternative in-service date does not change the useful life or life of the reserve.

(C) Lessees may include allowable depreciation expense for acquired fixed assets as part of a washing allowance. If you have a depreciation schedule that the original lessee established in

compliance with 30 CFR part 1206 for purposes of the allowance calculation, a change in ownership of a transportation system will not alter that depreciation schedule.

(D) Proposing a depreciation schedule to ONRR:

(1) If no depreciation schedule under 30 CFR part 1206 exists or has existed for an in-service fixed asset, you may propose to ONRR a depreciation schedule for your transportation allowance.

(2) If the depreciation schedule for an in-service fixed asset does not comply with 30 CFR part 1206, you may propose to ONRR a depreciation schedule for your washing allowance.

(3) ONRR will consider the following factors when reviewing a proposed depreciation schedule for approval: the lessee's or a prior owner's published capitalization policy, depreciation policy, fixed asset useful life policy, and any related policies in effect during the applicable period, when provided by the proposing lessee; consistency with audited financial statements that have been prepared in accordance with generally accepted accounting principles in the United States ("U.S. GAAP"), when supporting records and reconciliations are provided by the proposing lessee; documents prepared in support of the recording and capitalization of fixed assets under U.S. GAAP, when provided by the proposing lessee; purchase price allocation reports prepared in accordance with U.S. GAAP by independent experts, when provided by the proposing lessee; practices typical of the industry; and any information that ONRR deems relevant regarding the depreciation schedule.

(E) With or without a change in ownership, a transportation system shall be depreciated only once. Equipment shall not be depreciated below a reasonable salvage value.

(F) To calculate the return on undepreciated capital cost, you may use an amount equal to the undepreciated capital cost at the beginning of the reporting period of the transportation system multiplied by the rate of return that you determine under paragraph (b)(2)(vii) of this section.

(G) After you have depreciated a transportation system to the reasonable salvage value, you may thereafter include in the allowance calculation a cost equal to the reasonable salvage value multiplied by a rate of return under paragraph (v) of this section.

(vi) ONRR shall allow as a cost an amount equal to the allowable initial capital cost of the transportation system multiplied by the rate of return determined pursuant to paragraph

(b)(2)(vii) of this section. No allowance shall be provided for depreciation. This alternative shall apply only to transportation facilities first placed in service or acquired after March 1, 1989.

(vii) The rate of return must be the industrial rate associated with Standard and Poor's BBB rating. The rate of return must be the monthly average rate as published in Standard and Poor's Bond Guide for the first month for which the allowance is applicable. The rate must be redetermined at the beginning of each subsequent calendar year.

(3) A lessee may apply to ONRR for exception from the requirement that it compute actual costs in accordance with paragraphs (b)(1) and (2) of this section. ONRR will grant the exception only if the lessee has a rate for the transportation approved by a Federal agency or by a State regulatory agency (for Federal leases). ONRR shall deny the exception request if it determines that the rate is excessive as compared to arm's-length transportation charges by systems, owned by the lessee or others, providing similar transportation services in that area. If there are no arm's-length transportation charges, ONRR shall deny the exception request if:

(i) No Federal or State regulatory agency costs analysis exists and the Federal or State regulatory agency, as applicable, has declined to investigate under ONRR timely objections upon filing; and

(ii) The rate significantly exceeds the lessee's actual costs for transportation as determined under this section.

(c) *Reporting requirements—*

(1) *Arm's-length contracts.*

(i) The lessee must notify ONRR of an allowance based on incurred costs by using a separate line entry on the form ONRR-4430.

(ii) ONRR may require that a lessee submit arm's-length transportation contracts, production agreements, operating agreements, and related documents. Documents shall be submitted within a reasonable time, as determined by ONRR.

(2) *Non-arm's-length or no contract.*

(i) The lessee must notify ONRR of an allowance based on the incurred costs by using a separate line entry on Form ONRR-4430.

(ii) For new transportation facilities or arrangements, the lessee's initial deduction shall include estimates of the allowable coal transportation costs for the applicable period. Cost estimates shall be based upon the most recently available operations data for the transportation system or, if such data are not available, the lessee shall use

estimates based upon industry data for similar transportation systems.

(iii) Upon request by ONRR, the lessee shall submit all data used to prepare the allowance deduction. The data shall be provided within a reasonable period of time, as determined by ONRR.

(iv) If the lessee is authorized to use its Federal- or State-agency-approved rate as its transportation cost in accordance with paragraph (b)(3) of this section, it shall follow the reporting requirements of paragraph (c)(1) of this section.

(d) *Interest and assessments.*

(1) If a lessee nets a transportation allowance on Form ONRR-4430, the lessee shall be assessed an amount of up to 10 percent of the allowance netted not to exceed \$250 per lease sales type code per sales period.

(2) If a lessee erroneously reports a transportation allowance which results in an underpayment of royalties, interest shall be paid on the amount of that underpayment.

(3) Interest required to be paid by this section shall be determined in

accordance with § 1218.202 of this subchapter.

(e) *Adjustments.*

(1) If the actual coal transportation allowance is less than the amount the lessee has taken on Form ONRR-4430 for each month during the allowance reporting period, the lessee shall pay additional royalties due plus interest computed under § 1218.202 of this subchapter from the date when the lessee took the deduction to the date the lessee repays the difference to ONRR. If the actual transportation allowance is greater than amount the lessee has taken on Form ONRR-4430 for each month during the allowance reporting period, the lessee shall be entitled to a credit without interest.

(2) The lessee must submit a corrected Form ONRR-4430 to reflect actual costs, together with any payments, in accordance with instructions provided by ONRR.

(f) *Other transportation cost determinations.* The provisions of this section shall apply to determine transportation costs when establishing

value using a net-back valuation procedure or any other procedure that requires deduction of transportation costs.

■ 24. The authority section for part 1290 is revised to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 30 U.S.C 1724; 43 U.S.C. 1331.

■ 25. Amend § 1290.105 by revising paragraph (f) to read as follows:

§ 1290.105 How do I appeal an order?

* * * * *

(f) The ONRR Director will review the record that was before the ONRR issuing office along with the written statement of reasons submitted by the appellant and render a decision in the case. The ONRR Director will determine if there is credible evidence to support the Order and shall review all conclusions of law de novo. Such decision will be made in a timely manner and not unreasonably withheld.

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[FR Doc. 2026-13133 Filed 6-29-26; 8:45 am]

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Part IV

Federal Deposit Insurance Corporation

12 CFR Part 327

Assessments Thresholds, Rate Schedules, and Adjustments; Proposed Rule

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AG27

Assessments Thresholds, Rate Schedules, and Adjustments

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) invites public comment on a proposed rule that would amend the assessment regulations in 12 CFR part 327 to: update the \$10 billion asset threshold in the definitions of small and large institutions to \$30 billion and adjust the threshold every four years to reflect inflation, pursuant to a pre-determined indexing methodology; decrease initial base deposit insurance assessment rate schedules by 2 basis points for small institutions and by 1 basis point for large and highly complex institutions; provide a downward resolution readiness adjustment to assessment rates for large and highly complex institutions, including 0.5 basis points for passing virtual data room testing and 0.5 basis points for providing prescribed data access; and remove obsolete provisions.

DATES: Comments must be received no later than August 31, 2026.

ADDRESSES: You may submit comments on the notice of proposed rulemaking, identified by RIN 3064–AG27 using any of the following methods:

- **FDIC website:** <https://www.fdic.gov/federal-register-publications>. Follow the instructions for submitting comments on the agency website.

- **Email:** Comments@fdic.gov. Include RIN 3064–AG27 on the subject line of the message.

- **Mail:** Jennifer M. Jones, Deputy Executive Secretary, Attention: Comments—RIN 3064–AG27, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

- **Hand Delivery to FDIC:** Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street NW) on business days between 7 a.m. and 5 p.m.

- **Public Inspection:** Comments received, including any personal information provided, may be posted without change to <https://www.fdic.gov/federal-register-publications>. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC

may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of the proposed rule will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

This proposal, all comments received, and a summary of not more than 100 words of the proposed rule pursuant to the Providing Accountability Through Transparency Act of 2023 are available at <https://www.fdic.gov/federal-register-publications>.

FOR FURTHER INFORMATION CONTACT:

Division of Insurance and Research: Daniel Hoople, Associate Director, Financial Risk Management Branch, 202–898–3835, dhoople@fdic.gov; Division of Complex Institution Supervision and Resolution: Ryan Tetrick, Deputy Director, Resolution Readiness Branch, 202–898–7028, rtetrick@fdic.gov; Sean Healey, Acting Associate Director, Policy Analysis, Systemic Risk Branch, 202–898–7049, seahaley@fdic.gov; Patrick Bittner, Senior Policy Specialist, Policy Analysis, Systemic Risk Branch, 202–898–3550, pabittner@fdic.gov; Division of Resolutions and Receiverships: Shivali Nangia, Deputy Director, Receivership Operations, 972–761–2945, snangia@fdic.gov; Catherine Linhart, Assistant Director, Closing Operations and Data, 571–242–5368, clinhart@fdic.gov; Legal Division: Ryan McCarthy, Counsel, 202–898–7301, rymccarthy@fdic.gov; Jacques Schillaci, Counsel, 202–898–7298, jschillaci@fdic.gov; Dena Kessler, Counsel, 202–898–3833, dkessler@fdic.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legal Framework

Pursuant to section 7 of the Federal Deposit Insurance (FDI) Act,¹ the FDIC has established a risk-based assessment system for calculating and charging all insured depository institutions (IDIs)² a

quarterly assessment for deposit insurance.³ The FDI Act defines a risk-based assessment system as a system for calculating a depository institution's assessment based on: (1) the probability that the Deposit Insurance Fund (DIF) will incur a loss with respect to the institution; (2) the likely amount of any such loss; and (3) the revenue needs of the DIF.⁴ The FDIC has established separate risk-based assessment systems⁵ and calculates a bank's assessment rate using different methods for small, large, and highly-complex institutions.⁶

Under the assessment regulations, the amount of an IDI's deposit insurance assessment is equal to its assessment base multiplied by its risk-based assessment rate.⁷ Generally, an IDI's assessment base equals its average consolidated total assets minus its average tangible equity.⁸ An IDI's risk-based assessment rate is determined each quarter based on supervisory ratings and information collected on the Consolidated Reports of Condition and Income (Call Report) or the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), as appropriate.⁹

The assessment regulations generally define a small institution as an IDI with total assets of less than \$10 billion, as reported on the Call Report.¹⁰ Assessment rates for established small banks (*i.e.*, small banks that have been federally insured for at least five years) are calculated based on seven financial ratios and a weighted average of

“insured depository institution” as it is used in section 3(c)(2) of the FDI Act, 12 U.S.C. 1813(c)(2). As used in this notice, the term “small bank” is synonymous with the term “small institution,” as defined in 12 CFR 327.8(e), or using the proposed revised definition. Additionally, as used in this notice, the terms “large bank” and “highly complex institution” refer to an insured depository institution that meets the definition of a large institution or highly complex institution as defined in 12 CFR 327.8(f) and (g), or using the proposed revised definitions of those terms.

³ 12 CFR part 327.

⁴ See 12 U.S.C. 1817(b)(1)(C).

⁵ See 12 U.S.C. 1817(b)(1)(D).

⁶ See 12 CFR 327.16(a) and (b).

⁷ See 12 CFR 327.3(b)(1).

⁸ See 12 CFR 327.5(a).

⁹ See 12 CFR 327.16.

¹⁰ Banks that elect to use the community bank leverage ratio framework are also considered small institutions, even if those banks would otherwise meet the definition of a large institution. See 12 CFR 327.8(e)(3). An insured branch of a foreign bank is not considered a large institution. See 12 CFR 327.8(f).

A small institution is reclassified as a large institution beginning in the fourth consecutive quarter that it reports assets of \$10 billion or more on the Call Report. Similarly, a large institution is reclassified as a small institution beginning in the fourth consecutive quarter that it reports assets of less than \$10 billion on the Call Report.

¹ See 12 U.S.C. 1817(b).

² As used in this notice of proposed rulemaking, the term “bank” is synonymous with the term

supervisory CAMELS¹¹ components that are statistically significant in predicting the probability of an institution's failure over a three-year horizon.¹² The CAMELS composite rating is used to determine the minimum and maximum assessment rate for a small institution.

For purposes of deposit insurance assessments, a large institution is generally defined as an IDI that reports assets of \$10 billion or more on its Call Report for four consecutive quarters that does not meet the definition of a highly complex institution.¹³ A highly complex institution is generally defined as an institution that has \$50 billion or more in total assets and is controlled by a parent holding company that has \$500 billion or more in total assets, or is a processing bank or trust company.¹⁴ Assessment rates for large banks and highly complex institutions are calculated using a scorecard approach based on CAMELS component ratings and certain forward-looking financial measures to assess the risk that the institution poses to the DIF. One version of the scorecard applies to most large banks and another to highly complex institutions.¹⁵

As part of the risk-based assessment system, institutions are subject to certain adjustments to their assessment rates for factors that can increase or reduce loss to the DIF in the event the bank fails.¹⁶ For example, the unsecured debt adjustment is a downward adjustment intended to better account for certain liabilities that can reduce the loss to the DIF in the event of failure.¹⁷ The brokered deposit adjustment is an upward adjustment.¹⁸ In addition, the FDIC may adjust a large or highly complex institution's total score, which is used in the calculation of its assessment rate, to consider idiosyncratic or other relevant risk

factors not reflected in the appropriate scorecard.¹⁹

B. Overview of the Proposal and Policy Objectives

The FDIC, under its general rulemaking authority in section 9 of the FDI Act, and its specific authority under section 7 of the FDI Act to set assessments and establish a risk-based assessment system,²⁰ is proposing to make several revisions to the deposit insurance assessment regulations (the proposal), including to: (1) update the \$10 billion asset threshold in the definitions of small and large institutions to \$30 billion and adjust the threshold every four years to reflect inflation, pursuant to a pre-determined indexing methodology; (2) decrease initial base assessment rate schedules by 2 basis points for all small institutions, including new small institutions and insured branches of foreign banks, and by 1 basis point for large and highly complex institutions; and (3) provide a downward resolution readiness adjustment (RRA) to assessment rates for large and highly complex institutions electing to participate, including 0.5 basis points for passing voluntary virtual data room (VDR) testing and 0.5 basis points for providing prescribed data access. In addition, the FDIC is proposing to make certain technical amendments to the assessment regulations to remove obsolete provisions.

The FDIC continues to explore opportunities for updating the assessment regulations, including adjusting other thresholds and possible updates and improvements to the scorecard methodology applied to calculate assessments for large banks and highly complex institutions. Any future updates would be made through a separate notice and comment rulemaking.

1. Proposed Updates to Small and Large Institution Definitions

The FDIC is proposing to update the definitions of small and large institutions that determine which risk-based deposit insurance assessment methodology is applied to calculate an institution's deposit insurance assessment rate.²¹ Specifically, the FDIC is proposing to update the asset-based threshold (the assessment methodology threshold) used to define small and large institutions from \$10 billion to \$30 billion and to adjust the threshold every

four years to reflect inflation, pursuant to a pre-determined indexing methodology which would generally align with the methodology used to adjust certain other thresholds within FDIC regulations.²²

The primary objective of the proposed update and future indexing is to provide for a more durable deposit insurance assessment framework by preserving, in real terms, the assessment methodology threshold used to define small and large institutions. The inflation adjustment would also preserve the FDIC's ability to apply different assessment methodologies based on size that are more appropriate to banks' risk profiles and risk exposure to the DIF.

2. Proposed Revisions to Assessment Rates

The FDIC is also proposing revisions to deposit insurance assessment rate schedules. First, the proposal would decrease initial base deposit insurance assessment rate schedules uniformly by 2 basis points for IDIs that meet the proposed definition of a small institution, and by 1 basis point for IDIs that meet the proposed definition of a large institution or that are highly complex institutions. The proposed reductions would only apply to initial base assessment rate schedules applicable while the reserve ratio is less than 2 percent.²³

3. The Resolution Readiness Adjustment

The proposed rule would amend the risk-based assessment system to include a downward adjustment, the RRA, of up to 1 basis point to initial base assessment rates if a large or highly complex institution elects to (1) submit to testing of the institution's ability to populate a VDR with information that could be used to market a bank in the event of its failure; and/or (2) provide the FDIC access to an institution's service provider(s) and/or internal systems to obtain detailed bank data needed to manage and market the bank in receivership. The RRA would be applied to a large or highly complex institution's assessment rate in recognition of the expected reduction in losses to the DIF in the event of the failure of a bank that successfully

¹¹ Bank examiners review and evaluate an institution's condition using the Uniform Financial Institutions Rating System, also known as CAMELS (Capital, Asset quality, Management, Earnings, Liquidity, and Sensitivity to market risk). CAMELS ratings are scored on a scale of "1" (best) to "5" (worst). Examiners assign a rating for each CAMELS component and an overall Composite rating.

¹² See 12 CFR 327.16(a); see also 81 FR 32180 (May 20, 2016).

¹³ See 12 CFR 327.8(f).

¹⁴ See 12 CFR 327.8(g).

¹⁵ See 12 CFR 327.16(b)(1) and (2); see also 76 FR 10672 (Feb. 25, 2011) and 77 FR 66000 (Oct. 31, 2012).

¹⁶ See 12 CFR 327.16(e).

¹⁷ *Id.* See also 74 FR 9525 (Mar. 4, 2009) and 76 FR 10672, 10680 (Feb. 25, 2011). The unsecured debt adjustment applies to all institutions except new institutions and insured branches of foreign banks.

¹⁸ See 12 CFR 327.16(e)(3).

¹⁹ See 12 CFR 327.16(b)(3); see also Assessment Rate Adjustment Guidelines for Large and Highly Complex Institutions, 76 FR 57992 (Sept. 19, 2011).

²⁰ See 12 U.S.C. 1817 and 1819 (Tenth).

²¹ See 12 CFR 327.8(e) and (f).

²² See Adjusting and Indexing Certain Regulatory Thresholds, 90 FR 55789 (Dec. 4, 2025). Any references to inflation in this proposal refer to inflation as measured under the consumer price index for urban wage earners and clerical workers (CPI-W), unless specifically noted otherwise.

²³ Progressively lower assessment rate schedules will take effect when the reserve ratio exceeds 2 percent and 2.5 percent, and the FDIC did not modify those schedules when increasing rates in 2023. See 12 CFR 327.10(c) and (d). See also 87 FR 64314 (Oct. 24, 2022).

completes the VDR testing exercise and/or provides the prescribed data access.²⁴

The RRA would be applied to a bank's initial base assessment rate prior to application of any other applicable adjustments to initial base assessment rates. Under the current regulations, the minimum initial base assessment rate applied to large and highly complex institutions becomes progressively lower when the reserve ratio reaches 2 percent and 2.5 percent. Under the proposal, the minimum initial base assessment rates applied to large and highly complex institutions would still become progressively lower, but the decrease would be smaller in order to incorporate the RRA.

Under the revised schedules, a large or highly complex institution at the minimum initial base assessment rate that also earns the full 1 basis point RRA would be eligible to receive the same maximum unsecured debt adjustment as it would under the rate schedules applied in the current regulation after the reserve ratio reaches 2 percent. In addition, under the proposed rate schedules, the minimum assessment rate after application of all adjustments would be the same for large and highly complex institutions and for small banks, which is equal to the minimum assessment rates applied prior to the increase implemented in 2023.²⁵

4. Technical Amendments To Remove Obsolete Content

The FDIC is also proposing technical amendments to its regulations governing deposit insurance assessments to remove obsolete provisions that are no longer applicable and have not been applicable to any IDI for at least three years.

II. Updating Definitions of Small and Large Institutions

A. Background

The FDIC is proposing to amend the definitions of small and large institutions in the assessment regulations. Under the assessment regulations, the definitions of small, large, and highly complex institutions determine which risk-based deposit insurance assessments methodology is applied when calculating an institution's deposit insurance assessment rate.²⁶

²⁴ The FDI Act requires the FDIC to establish a risk-based assessment system for calculating an IDI's assessment based on the probability that the DIF will incur a loss with respect to that IDI and the likely amount of any such loss, among other factors. See 12 U.S.C. 1817(b)(1)(C).

²⁵ See *supra* fn 23.

²⁶ See 12 CFR 327.8(e), (f), and (g).

The current definitions of small and large institutions, first adopted in 2006, use certain static, dollar-based thresholds, which have not been updated in twenty years. Adjusting these thresholds on a consistent schedule would mitigate the risk that the deposit insurance assessment system becomes less effective at differentiating risk and more burdensome on smaller institutions due solely to inflation rather than meaningful changes in an institution's size, risk profile, or level of complexity.

Under the proposal, the dollar-based asset threshold used to define small and large institutions would be updated and adjusted in the future to reflect inflation, pursuant to a pre-determined indexing methodology. The primary objective of this component of the proposal is to provide for a more durable deposit insurance assessment framework by preserving, in real terms, the threshold used to define small and large institutions. The inflation adjustment, in combination with the proposed threshold and definition updates, also would preserve the FDIC's ability to apply different assessment methodologies based on size and engagement in certain activities that are more appropriate to banks' risk profiles and risk exposure to the DIF.

In the absence of these ongoing threshold adjustments, institutions would also become subject to additional assessment-related reporting requirements as they grow above the threshold. This additional reporting burden may be justified in cases where asset growth reflects changes to actual size, risk profile, and complexity but would be less appropriate to the extent that growth instead reflects inflation. Adjusting regulatory thresholds over time helps preserve the intended use and application, in real terms, of additional reporting requirements and helps ensure that IDIs are assessed appropriately, commensurate with the risk they pose to the DIF.

B. Current Definitions of Small and Large Institutions

For established institutions that are not insured branches of foreign banks, asset size, as measured by total assets reported on the Call Report, is the sole factor used by the FDIC to determine whether an institution's assessment rate is calculated using the pricing methodology for small institutions or large institutions.²⁷ The FDIC's assessment regulations generally define

a small institution as an IDI with total assets of less than \$10 billion, as reported on the Call Report, while a large institution is defined as an IDI that reports total assets of \$10 billion or more on its Call Report for four consecutive quarters and that does not meet the definition of a highly complex institution.²⁸ The \$10 billion asset size threshold has been in place since the FDIC first established separate risk-based pricing methods for large and small banks in 2006.²⁹

C. Proposed Increase in the Asset Threshold in the Definitions of Small and Large Institutions

The FDIC is proposing to update the asset-based threshold in the assessment regulations used to define small and large institutions for deposit insurance assessments purposes and to determine whether assessment rates are calculated using the small bank pricing methodology or the large bank scorecard approach from \$10 billion in total assets to \$30 billion in total assets. In future years, the proposed assessment methodology threshold of \$30 billion would be adjusted on a consistent basis as later described in section II.F. of this Supplementary Information.

An institution that is priced as a large institution immediately prior to the effective date of any final rule but that reports less than \$30 billion in total assets would be classified as a small institution as of the effective date of any final rule. Such a bank would not need to report less than \$30 billion in total assets for four consecutive quarters before being reclassified as small. Thereafter, a small institution would be reclassified as a large institution only if it reports total assets of \$30 billion (or such threshold adjusted in the future for inflation) or more for four consecutive quarters. Similarly, a large institution would be reclassified as a small institution only if it reports total assets under \$30 billion (or such threshold adjusted in the future for inflation) for four consecutive quarters.

For large and highly complex institutions, the FDIC can adjust the total score based on relevant risk or risk-mitigating factors that are not adequately reflected in the scorecards.³⁰ The proposed increase in the assessment methodology threshold from \$10 billion to \$30 billion has the effect that institutions with total assets under \$30 billion that are not priced as large banks would not be considered for these potential score adjustments, though the

²⁷ Generally, an established institution is one that has been federally insured for at least five years. See 12 CFR 327.8(k).

²⁸ See *supra* fn 10.

²⁹ See 71 FR 69270, 69281 (Nov. 30, 2006).

³⁰ See 76 FR 57992 (Sept. 19, 2011).

adjustment guidelines would be retained and would be unchanged for an institution that would meet the proposed definition of a large institution or that is defined as a highly complex institution.

The proposed assessment methodology threshold of \$30 billion in total assets is consistent with the recent update to the FDIC's continuous examination process. The FDIC has historically supervised banks under either a point-in-time examination process or a continuous examination process. Prior to recent changes, nearly all FDIC-supervised banks with \$10 billion or more in total assets were subject to the continuous examination process, as were a small handful below \$10 billion in total assets based on certain risk considerations. The FDIC recently raised the threshold for presumptive inclusion in the continuous examination process from \$10 billion to \$30 billion in total assets, while retaining the ability to include a bank below \$30 billion in total assets if warranted.³¹

1. Analysis

The FDIC anticipates that increasing the assessment methodology threshold to \$30 billion in total assets would shift the share of industry assets held by banks priced using the scorecard methodology to more closely align with the share held by such institutions in 2011, when the current large bank and highly complex scorecard methodology was first implemented. At that time, institutions priced as large or highly complex institutions made up 78.9

percent of industry assets. As of December 31, 2025, that share has increased to 85.0 percent. Under the proposed \$30 billion assessment methodology threshold, large and highly complex institutions would make up 79.5 percent of industry assets based on data as of December 31, 2025.

The FDIC anticipates that increasing the assessment methodology threshold to \$30 billion in total assets would result in 76 institutions shifting from the large bank pricing scorecard methodology to the small bank pricing methodology based on data as of December 31, 2025.

The FDIC estimates that among the 76 institutions that would shift from the large bank pricing scorecard methodology to the small bank pricing methodology as a result of the proposal, almost all would pay less in assessments, particularly after applying the proposed 2 basis point reduction in initial base assessment rate schedules applicable to small banks detailed below. However, to mitigate possible effects on some institutions, the FDIC is proposing to provide for a one-time election for reclassified institutions to be temporarily priced using the large bank scorecard methodology to mitigate any impact and allow for a transition, as described below.

The overall impact to institutions' assessments from the proposed change in definitions would vary by institution, based on differences in the pricing methodologies for small and large banks and the institution's specific financial data and supervisory ratings. Therefore, the shift in pricing methodology is expected to result in varied financial outcomes for the affected IDIs, which will further vary over time and through banking and economic cycles. For example, a given bank likely would have paid a lower rate when priced as large in 2020 due to the influx of deposits in response to the pandemic and related relief efforts which improved liquidity and core deposits measures applicable to large banks, whereas the small bank pricing methodology directly prices for rapid asset growth.

Generally, possible impacts could include, but would not be limited to, banks with significant concentrations in higher-risk assets or elevated funding stress paying lower assessments, and banks with greater concentrations in core deposits or larger government guaranteed loan portfolios paying higher assessments under the small bank pricing methodology relative to the current large bank scorecard methodology. Institutions with higher leverage ratios could also pay lower assessments if shifted to the small bank pricing methodology. These potential effects arise because the small bank pricing methodology uses a different set of financial measures and weights based on how the measures corresponded with the probability of failure for small banks.

In aggregate and disregarding the other proposed changes to the assessment regulations in this proposal, the proposed increase in the assessment methodology threshold is estimated to result in an approximate net decrease of \$129 million in annual assessments based on data as of December 31, 2025.³² This component of the proposal, if adopted, is therefore expected to reduce the banking industry's aggregate assessment cost, with varied impacts on individual affected institutions depending on how their specific risk profiles at a specific point in time are priced under the small bank pricing methodology.

The FDIC analyzed the similarity between institutions with total assets between \$1 billion and \$10 billion and the 76 institutions with assets between \$10 billion and \$30 billion that would be reclassified as small institutions under the proposal. As reflected in Table 1, on average, both groups reported approximately similar shares of deposit and loan types and leverage ratios as of December 31, 2025.³³

³² Analysis is based on data from the Call Report and FFIEC 002 for the reporting period that ended December 31, 2025, reported as of February 16, 2026.

³³ The regulatory and reporting requirements for institutions with total assets under \$1 billion generally differ from that of those with over \$1 billion. See, e.g., 12 CFR 363.1(a).

³¹ See FDIC Chairman Travis Hill, "Oversight of Prudential Regulators," Testimony, Committee on Financial Services, United States House of Representatives, December 2, 2025, available at: <https://www.fdic.gov/news/speeches/2025/oversight-prudential-regulators>. A revised assessment methodology threshold of \$30 billion in total assets is also consistent with recent actions taken by the Office of the Comptroller of the Currency (OCC) to tailor its regulatory and supervisory frameworks to minimize burden for its regulated institutions and promote economic growth. See OCC News Release, "OCC Announces Actions to Reduce Regulatory Burden for Community Banks," October 6, 2025, available at: <https://occ.gov/news-issuances/news-releases/2025/nr-occ-2025-95.html>.

Table 1—Comparison of Small Institutions Across Select Financial and Capital Ratios

	Small Institutions with Total Assets between \$1 billion and \$10 billion	Institutions Reclassified as Small under the Proposal (Total Assets between \$10 billion and \$30 billion)
Count of Institutions	897	76
Liabilities		
Average Share of Foreign Deposits (%)	0.09	0.18
Average Share of Uninsured Deposits (%)	32.6	34.8
Average Share of Insured Brokered Deposits (%)	6.1	8.3
Assets		
Average Share of Real Estate Loans (%)	55.2	45.1
Average Share of Commercial & Industrial Loans (%)	9.7	8.8
Average Share of Agricultural Loans (%)	1.4	0.3
Average Leverage Ratio (%)	11.1	10.3

Source: FDIC Call Reports December 2025, reported as of February 16, 2026.

Note: Asset size ranges include the lower value and exclude the higher value. Analysis assumes institutions that report null values for foreign deposits on their Call Reports have zero such deposits.

Institutions that would shift from the large bank scorecard methodology to the small bank pricing methodology would also benefit from a reduction in reporting burden, as large institutions must report granular data on higher-risk asset exposures and specific liability concentrations under the scorecard approach. These reporting burden reductions would be expected to create operational savings for the reclassified IDIs.

2. Alternatives Considered

In developing the proposal, the FDIC considered alternatives to the proposed \$30 billion assessment methodology threshold, including maintaining the \$10 billion threshold or increasing the assessment methodology threshold to \$20 billion, \$25 billion, or \$50 billion.

The FDIC believes that maintaining the current \$10 billion assessment methodology threshold would not be appropriate because institutions between \$10 billion and \$30 billion in total assets are more appropriately priced using the small bank pricing methodology than the large bank scorecard. Increasing the asset-based threshold in the definitions of small and large banks in the assessments regulations to \$30 billion would more closely align the share of industry assets

held by banks priced using the scorecard methodology under the proposal with the share held by such institutions when the current large bank and highly complex scorecard methodology was first implemented in 2011. At that time, institutions priced as large or highly complex institutions made up 78.9 percent of industry assets. As of December 31, 2025, that share has increased to 85.0 percent. Under the proposed \$30 billion assessment methodology threshold, large and highly complex institutions would make up 79.5 percent of industry assets based on data as of December 31, 2025.

Further, institutions that would shift from the large bank scorecard methodology to the small bank pricing methodology under the proposal demonstrate certain similarities with other small institutions. For example, and as described above, small institutions with total assets between \$1 billion and \$10 billion report approximately similar shares of foreign deposits, uninsured deposits, and real estate loans as those of the 76 institutions that would shift from the large bank pricing scorecard methodology to the small bank pricing methodology under the proposal.

The FDIC considered several alternative thresholds. In general,

relative to the alternatives considered, the FDIC believes that the proposed threshold of \$30 billion best preserves its intended purpose as it most closely aligns with the shares of industry assets held by small and large institutions in 2011, when the current large bank pricing methodology was implemented, but seeks comments on alternatives.

Question 1: What are the advantages and disadvantages of updating the threshold for defining an institution as small or large for deposit insurance assessments purposes from \$10 billion in total assets to \$30 billion in total assets, as described above? Should the FDIC consider other asset thresholds for defining an institution as small or large for deposit assessment purposes? Are there any other factors the FDIC should consider?

Question 2: What are the potential unintended consequences, if any, of establishing a higher threshold for deposit insurance assessments purposes?

D. Removing the Option for a Small Institution To Request That the FDIC Determine Its Assessment Rates as a Large Institution

The FDIC's assessment regulations currently permit a small institution with assets between \$5 billion and \$10

billion to request that the FDIC determine its assessment rate as a large institution.³⁴ Approved requests become effective within one year of the date of the request. If an institution whose request has been granted subsequently reports total assets of less than \$5 billion in its Call Report for four consecutive quarters, the institution shall be deemed a small institution for assessment purposes. If the FDIC approves an institution's request to be treated as a large institution, the institution is not eligible to request to be assessed as a small institution for a period of three years from the first quarter its approval became effective.

Small institutions that have exercised this option generally have paid lower assessments under the large bank scorecard approach relative to the small bank pricing methodology. However, several additional reasons for requesting this option have been cited, including anticipated growth above the \$10 billion threshold and having an affiliated large bank with which the small bank shares the same reporting and risk framework.

The FDIC is proposing to remove this option to promote fairness, simplicity, and accuracy in risk-based deposit insurance assessments. Additionally, if the assessment methodology threshold is consistently adjusted in the future to reflect inflation, banks will be less likely to naturally grow above the threshold. The FDIC expects the impact of removing this provision to be minimal given that only nine requests were received in the last ten years.

Question 3: What are the advantages and disadvantages of eliminating the option for a small institution to request treatment as a large institution for purposes of the assessment regulations, as described above?

Question 4: What are the potential unintended consequences, if any, of eliminating this option?

E. One-Time Election for Reclassified Institutions To Be Temporarily Priced Using the Large Bank Scorecard Pricing Methodology

Under the proposal, an institution priced as a large institution immediately prior to the effective date of any final rule that reports total assets below the updated threshold of \$30 billion would be priced as a small institution as of the effective date of any final rule. To mitigate possible effects on some institutions, including the potential "cliff effect" of immediately switching pricing frameworks, the FDIC is proposing to provide any bank classified as a large institution immediately prior

to the effective date of any final rule that report total assets below \$30 billion a one-time option to temporarily continue to be priced as a large institution. Under the proposal, a bank that exercises this option would be ineligible for the RRA unless and until the bank meets the proposed definition of a large institution by reporting total assets of \$30 billion (or such threshold adjusted in the future for inflation) or more for four consecutive quarters and elects to submit to VDR testing or provides the prescribed data access.

An institution electing this option would continue to be priced as a large institution for eight consecutive quarters (inclusive of the first quarter) after the effective date of any final rule. If an institution that elects to be priced as a large institution and has not reported total assets of \$30 billion or more for at least four consecutive quarters reports total assets of less than \$30 billion at the end of the eight-quarter transition period, it will be classified as a small institution beginning on the first day of the subsequent quarter. If an institution that elects to be priced as a large institution reports total assets of \$30 billion or more for four consecutive quarters during the eight-quarter transition period, it would be classified as a large institution unless and until it subsequently reports total assets below the proposed threshold of \$30 billion for four consecutive quarters.

To elect this option, an eligible institution would be required to provide notice to the FDIC indicating its one-time election for the FDIC to determine its assessment rate as a large institution for a period of time not to exceed the eight-quarter transition period, as defined under the proposal. The FDIC anticipates posting on its website a form letter that an eligible institution can submit as notice. The FDIC must receive such correspondence by mail or email prior to the end of the quarter in which any final rule becomes effective.

1. Alternatives Considered

An alternative to the proposed approach would be to allow banks reporting total assets between \$10 billion and \$30 billion a one-time election to remain a large institution for a longer period—for example, until the next indexing adjustment. Another alternative would be to reclassify banks as small or large based on their asset size as of the effective date of any final rule without allowing any transition period.

The FDIC believes that providing for a transition period would mitigate possible effects on some institutions, including the potential "cliff effect" of

immediately switching pricing frameworks and invites comment, including the appropriate length of any transition.

Question 5: What are the advantages and disadvantages of providing an institution that is reclassified as a small institution as a result of the proposed update to the assessment methodology threshold a one-time option to continue to be priced as large for eight consecutive quarters following the effective date of any final rule?

Question 6: Should the FDIC consider a shorter or longer transition period for institutions reclassified as small institutions as a result of the proposal? Please explain.

Question 7: Should the FDIC permit an institution that exercises the election to be treated as a large institution to be eligible for all or some of the RRA during the time period it is priced as a large institution?

F. Indexing of Threshold Used To Define Small and Large Institutions

Under the proposal, the dollar-based threshold included in the proposed definitions of a small and large institution would be updated and adjusted every four years to reflect inflation, pursuant to a pre-determined indexing methodology. Specifically, the proposed indexing methodology would adjust the threshold based on the consumer price index for urban wage earners and clerical workers (CPI-W) published by the U.S. Bureau of Labor Statistics.³⁵ The use of CPI-W to index thresholds is consistent with the indexing methodology in other bank regulations.³⁶ Further, the indexing methodology included under the proposal would generally align with the methodology used to adjust certain

³⁵ The U.S. Bureau of Labor Statistics publishes the CPI-W on a monthly basis. The CPI-W is used to annually adjust benefits paid to Social Security beneficiaries and Supplemental Security Income recipients. See U.S. Social Security Administration, CPI for Urban Wage Earners and Clerical Workers, available at: www.ssa.gov/oact/STATS/cpiw.html.

³⁶ The use of CPI-W to index thresholds is consistent with other bank regulations, such as those relating to the Community Reinvestment Act and the March 2026 proposed updates to the regulatory capital rules. The indexing methodology would also generally align with the methodology used to adjust certain thresholds within FDIC regulations. See, e.g., Community Reinvestment Act Regulations Asset-Size Thresholds, 89 FR 106480, 106481 (Dec. 30, 2024); Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations With Significant Trading Activity, and Optional Adoption for Other Banking Organizations, 91 FR 14952, 14960 (Mar. 27, 2026); and Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-Weighted Assets, 91 FR 15332, 15364 (Mar. 27, 2026). See also 12 CFR 229.11.

³⁴ 12 CFR 327.16(f)(1).

other thresholds within FDIC regulations.³⁷

Under the proposal the asset-based threshold defining small and large institutions for purposes of deposit insurance assessments would be adjusted at the end of every consecutive four-year period based on the cumulative percent change of the non-seasonally adjusted CPI-W since the effective date of any final rule. This four-year period is intended to provide an appropriate cadence for capturing meaningful changes in inflation on a timely basis while minimizing the burden of adjustment. The proposed four-year cadence differs from the two-year cadence proposed in the March 2026 proposed updates to the regulatory capital rules and adopted in other FDIC regulations in consideration of the requirement that an institution exceed the dollar-based asset threshold in the definitions of small and large institutions in the assessment regulations for at least four consecutive quarters before a definition becomes applicable.³⁸

The proposal would not lower the threshold in the event of deflation.³⁹ In contrast to the indexing methodology included in the March 2026 proposed updates to the regulatory capital rules, the threshold defining small and large institutions in the assessment regulations would not be adjusted during any intervening calendar year to address the possibility of periods of unusual inflation. The FDIC believes this difference is appropriate given the requirement that an institution must generally report dollar amounts above or below the asset threshold defining small and large institutions in the assessment regulations for four consecutive quarters in order to meet the criteria for applicability of the definitions and the regular cadence of threshold adjustments would instill consistency and transparency in quarterly assessment payments for IDIs.

Additionally, the threshold adjusted under the proposed indexing methodology would be rounded based on the size of the threshold (*e.g.*, billions, millions, thousands), generally, to the nearest two significant digits, as appropriate.⁴⁰

To effectuate future threshold adjustments under the proposal, the FDIC would announce the thresholds adjusted in accordance with the indexing methodology by issuing a final rule in the **Federal Register** to announce the updated threshold without notice and comment. Although the FDIC would be required to publish a final rule in the **Federal Register**, the adjustment would occur even in the absence of publication in the **Federal Register**.

Threshold adjustments would be calculated based on cumulative CPI-W data through August of the year in which the adjustment is made, relative to the same initial baseline and would be effective for the assessment period beginning on October 1 of the year during which an adjustment is made.⁴¹ An institution priced as a large bank immediately prior to the effective date of any final rule announcing a threshold update that reports total assets below the updated threshold, would be priced as a small bank as of the effective date of any final rule.⁴²

1. Alternatives Considered

In developing this proposal and in proposing and finalizing the first phase of adjustments to certain thresholds within FDIC regulations,⁴³ the FDIC considered other factors that could be used to adjust certain thresholds in the assessment regulations to preserve the threshold levels in real terms over time.⁴⁴ For example, the indexing methodology could rely on an alternative index or measure of inflation (*e.g.*, core versus non-core measures). Additionally, the FDIC considered using changes in economic growth, such as gross domestic product (GDP), or banking industry assets as well as alternative approaches using a less or more frequent cadence or a process that is less automated (*e.g.*, requiring Board approval or public notice and comment).

Properly constructed, periodic adjustments can avoid unintended and undesirable outcomes. For example, frequent adjustments in the absence of

meaningful change can result in inefficiencies, as institutions realign their reporting and balance sheet management practices to reflect adjusted thresholds. Conversely, infrequent adjustments increase the risk that the intended purpose of the threshold is not preserved consistently over time.

A threshold may be periodically updated through ad-hoc review or consistent adjustments. An ad-hoc approach that does not pre-determine future adjustments may better preserve the threshold's intended application by allowing consideration of relevant contextual factors at each future adjustment. Such an approach may also be less predictable and introduce inefficiencies. Conversely, periodic adjustments using a pre-determined indexing methodology based on one or more specified factors, such as inflation, would increase efficiency and predictability, but may limit flexibility in cases where the measure is less relevant to a future context.

Finally, the threshold used in the assessment regulations to define an institution as a small or large institution and determine which assessment methodology is applied can influence a bank's decision to grow, as a bank's deposit insurance assessment rate may increase or decrease depending on whether it is defined as a small, large, or highly complex institution. Moreover, while all banks are required to report certain items on the Call Report, as noted above, large and highly complex institutions have additional reporting requirements related to assessments.

In general, properly structured and appropriately sequenced threshold adjustments promote consistent application of regulatory requirements over time and contribute to a more durable regulatory framework that enhances the overall efficacy of the risk-based assessment system. In addition, such adjustments can enhance transparency and certainty and therefore allow for more enhanced balance sheet management practices for IDIs.

As noted in the FDIC's 2025 final rule on adjusting and indexing certain regulatory thresholds, many commenters supported the proposed indexing methodology and related process for automatic threshold adjustments.⁴⁵ The FDIC is proposing substantively the same indexing methodology as the 2025 final rule, with the exception of the four-year cadence and disallowing adjustments in intervening years for periods of unusual

³⁷ The U.S. Bureau of Labor Statistics publishes the CPI-W on a monthly basis.

³⁸ Deposit insurance assessments are collected quarterly in arrears. For example, for deposit insurance coverage in the first quarter of each year (*i.e.* from January 1 through March 31), institutions are invoiced and payment is due in June of each year. Accordingly, if an institution is reclassified as a small institution with an effective date of January 1, for example, payment for the institution's first quarterly assessment calculated pursuant to the small bank pricing methodology would not be invoiced and due until June. See 12 CFR 327.3(b)(2).

³⁹ See *supra* fn 22.

⁴⁰ See 90 FR 35449, 35458 (Jul. 28, 2025). See also 90 FR 55789, 55791 (Dec. 4, 2025).

⁴⁵ See *supra* fn 22.

³⁷ See *supra* fn 22.

³⁸ See 91 FR 14952, 14960 (Mar. 27, 2026) and 91 FR 15332, 15364 (Mar. 27, 2026). See also 90 FR 55789 (Dec. 4, 2025).

³⁹ Any periods of deflation would be reflected in future threshold increases, as threshold adjustments in the future would be based on the positive net cumulative change in CPI-W.

⁴⁰ For example, a threshold that would otherwise be calculated as \$30.964 billion would be rounded to \$31 billion.

inflation, in lieu of alternatives, to reflect that general support.

Comments on the 2025 final rule on adjusting and indexing certain regulatory thresholds were mixed as to whether to use CPI-W as the reference index under the proposed indexing methodology. A few commenters supported the FDIC applying the same methodology when updating and adjusting thresholds across its regulations. Others suggested alternatives to CPI-W, including nominal GDP, banking industry assets, or an approach that would tailor the reference index by threshold type—for example, using CPI-W for consumer-facing monetary thresholds, and nominal GDP for asset-based thresholds. In general, the FDIC is proposing to update the assessment methodology threshold using CPI-W rather than using one or more other potential measures to promote consistency and reduce complexity across regulatory thresholds.

The FDIC considered these alternatives and comments in developing the proposal for adjusting thresholds in the assessment regulations. The FDIC requests additional feedback on all alternative approaches discussed and any other alternative approaches that should be considered.

The FDIC continues to evaluate other dollar-based thresholds in the assessment regulations and may consider soliciting comment on updating and adjusting additional thresholds through a subsequent proposal to amend the assessment regulations.

Question 8: What are the advantages and disadvantages of the proposed approach for indexing the threshold used for defining large and small institutions for purposes of deposit insurance assessments? What alternatives should the FDIC consider and why?

Question 9: What are the advantages and disadvantages of using a different index for adjusting the threshold, such

as banking industry assets, nominal GDP, or the GDP deflator, instead of CPI-W?

Question 10: Should the FDIC consider a shorter or longer interval than four years for automatic threshold adjustments, and if so, why?

Question 11: What are the advantages and disadvantages of discretionary off-year adjustments for periods of unusual inflation? Should the FDIC consider a framework for adjustment in off years, and if so, why?

III. Proposed Revisions to Assessment Rates

A. Background

1. Deposit Insurance Assessment Rates

Pursuant to section 7 of the FDI Act, the FDIC has established a risk-based assessment system through which it charges all IDIs an assessment amount for deposit insurance.⁴⁶ Under the FDIC's assessment regulations, an IDI's assessment amount is equal to its assessment base multiplied by its risk-based assessment rate.⁴⁷ The FDIC is authorized to set assessments for IDIs in such amounts as the FDIC may determine to be necessary or appropriate.⁴⁸ In setting assessment rates, the FDIC is required by statute to consider the following factors:

(i) The estimated operating expenses of the DIF.

(ii) The estimated case resolution expenses and income of the DIF.

(iii) The projected effects of the payment of assessments on the capital and earnings of IDIs.

(iv) The risk factors and other factors taken into account pursuant to section 7(b)(1) of the FDI Act (12 U.S.C. 1817(b)(1)) under the risk-based assessment system, including the requirement under such section to maintain a risk-based system.⁴⁹

(v) Other factors the FDIC has determined to be appropriate.⁵⁰

In addition, the FDIC Board of Directors (Board) is authorized to uniformly increase or decrease the total base rate assessment schedule up to a

maximum of 2 basis points or a fraction thereof, as the Board deems necessary, without further rulemaking.⁵¹

2. Current Assessment Rate Schedules and the Reserve Ratio

Effective January 1, 2023, the FDIC adopted an increase in initial base deposit insurance assessment rate schedules of 2 basis points as part of the statutorily-required Restoration Plan.⁵² Those rate schedules are currently in effect and are detailed below.⁵³ Progressively lower assessment rate schedules will take effect when the reserve ratio exceeds 2 percent and 2.5 percent, and the FDIC did not modify those schedules when increasing rates in 2023.⁵⁴

As of June 30, 2025, the reserve ratio increased to 1.36 percent, above the statutory minimum of 1.35 percent. Therefore, the FDIC is no longer operating under a Restoration Plan. The reserve ratio was 1.43 percent as of March 31, 2026, and has continued to progress toward the FDIC's long-term goal of a 2 percent designated reserve ratio (DRR).⁵⁵

a. Current Assessment Rate Schedules for Established Small Institutions and Large and Highly Complex Institutions

Assessment rates for established small institutions and large and highly complex institutions currently in effect while the reserve ratio is less than 2 percent are set forth in Table 2 below.

An institution's total base assessment rate may vary from the institution's initial base assessment rate as a result of possible adjustments for certain liabilities that can increase or reduce loss to the DIF in the event the institution fails.⁵⁶ After applying all possible adjustments, the current minimum and maximum total base assessment rates for established small institutions and large and highly complex institutions are set forth in Table 2 below.⁵⁷

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adopt a restoration plan when the DIF reserve ratio falls below the statutory minimum of 1.35 percent or is expected to within 6 months, to restore the DIF to at least 1.35 percent within eight years, absent extraordinary circumstances. See 12 U.S.C. 1817(b)(3)(B) and (E). The reserve ratio is calculated as the ratio of the net worth of the DIF to the value of the aggregate estimated insured deposits at the end of a given quarter. See 12 U.S.C. 1813(y)(3).

⁵³ See 12 CFR 327.10(b).

⁵⁴ See 12 CFR 327.10(c) and (d).

⁵⁵ The DRR is expressed as a percentage of estimated insured deposits. The FDI Act requires that the Board designate the DRR for the DIF and publish the DRR before the beginning of each calendar year. The Board must set the DRR in accordance with its analysis of certain statutory

factors: risk of losses to the DIF; economic conditions generally affecting IDIs; preventing sharp swings in assessment rates; and any other factors that the Board determines to be appropriate. In December 2010, the Board set the DRR at 2 percent based on a comprehensive, long-range management plan for the DIF and has voted annually since then to maintain the 2 percent DRR, most recently in November 2025. See 90 FR 54688 (Nov. 28, 2025).

⁵⁶ See *supra* fn 16.

⁵⁷ See 12 CFR 327.10(b)(2). An established insured depository institution is a bank or savings association that has been federally insured for at least five years as of the last day of any quarter for which it is being assessed. See 12 CFR 327.8(k).

⁴⁶ See *supra* fn 1.

⁴⁷ See *supra* fn 7.

⁴⁸ 12 U.S.C. 1817(b)(2)(A).

⁴⁹ The risk factors referred to in factor (iv) include the probability that the DIF will incur a loss with respect to the institution, the likely amount of any such loss, and the revenue needs of the DIF. See section 7(b)(1)(C) of the FDI Act, 12 U.S.C. 1817(b)(1)(C).

⁵⁰ See section 7(b)(2)(B) of the FDI Act, 12 U.S.C. 1817(b)(2)(B).

⁵¹ See 12 CFR 327.10(f)(3). In no case may any such rate adjustments result in total base assessment rates that are negative. See 12 CFR 327.10(f)(1).

⁵² See 87 FR 39388 (Jul. 1, 2022) and 87 FR 64314 (Oct. 24, 2022). The FDI Act requires the Board to

**Table 2—Current Total Base Assessment Rate Schedule (After Adjustments)
Applicable to Established Small Institutions and Large and Highly Complex
Institutions^{1, 2}**

	Established Small Institutions			Large & Highly Complex Institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	5 to 18	8 to 32	18 to 32	5 to 32
Unsecured Debt Adjustment ³	-5 to 0	-5 to 0	-5 to 0	-5 to 0
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10
Total Base Assessment Rate	2.5 to 18	4 to 32	13 to 32	2.5 to 42

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

³ The unsecured debt adjustment cannot exceed the lesser of 5 basis points or 50 percent of an insured depository institution’s initial base assessment rate; thus, for example, an insured depository institution with an initial base assessment rate of 5 basis points will have a maximum unsecured debt adjustment of 2.5 basis points and cannot have a total base assessment rate of lower than 2.5 basis points.

The assessment rates currently applicable to established small institutions and large and highly complex institutions in Table 2 above

remain in effect unless and until the reserve ratio meets or exceeds 2 percent.⁵⁸

Table 3 below applies if the reserve ratio of the DIF as of the end of the prior assessment period is equal to or greater than 2 percent and less than 2.5 percent.

⁵⁸In lieu of dividends, and pursuant to the FDIC’s authority to set assessments, the progressively lower initial base and total base assessment rates set

forth in 12 CFR 327.10(c) and (d) will come into effect without further action by the Board when the fund reserve ratio at the end of the prior assessment

period reaches 2 percent and 2.5 percent, respectively.

Table 3—Total Base Assessment Rate Schedule (After Adjustments)¹ Applicable to Established Small Institutions and Large and Highly Complex Institutions If the Reserve Ratio as of the End of the Prior Assessment Period Is Equal To or Greater Than 2 Percent but Less Than 2.5 Percent²

	Established Small Institutions			Large & Highly Complex Institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	2 to 14	5 to 28	14 to 28	2 to 28
Unsecured Debt Adjustment ³	-5 to 0	-5 to 0	-5 to 0	-5 to 0
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10
Total Base Assessment Rate	1 to 14	2.5 to 28	9 to 28	1 to 38

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

³ The unsecured debt adjustment cannot exceed the lesser of 5 basis points or 50 percent of an insured depository institution's initial base assessment rate; thus, for example, an insured depository institution with an initial base assessment rate of 2 basis points will have a maximum unsecured debt adjustment of 1 basis point and cannot have a total base assessment rate of lower than 1 basis point.

Under the current regulations, Table 4 below applies to established small institutions and large and highly

complex institutions if the reserve ratio of the DIF as of the end of the prior

assessment period is greater than 2.5 percent.

Table 4—Total Base Assessment Rate Schedule (After Adjustments)¹ Applicable to Established Small Institutions and Large and Highly Complex Institutions If the Reserve Ratio as of the End of the Prior Assessment Period is Equal to or Greater Than 2.5 Percent²

	Established Small Institutions			Large & Highly Complex Institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	1 to 13	4 to 25	13 to 25	1 to 25
Unsecured Debt Adjustment ³	-5 to 0	-5 to 0	-5 to 0	-5 to 0
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10
Total Base Assessment Rate	0.5 to 13	2 to 25	8 to 25	0.5 to 35

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

³ The unsecured debt adjustment cannot exceed the lesser of 5 basis points or 50 percent of an insured depository institution's initial base assessment rate; thus, for example, an insured depository institution with an initial base assessment rate of 1 basis point will have a maximum unsecured debt adjustment of 0.5 basis points and cannot have a total base assessment rate of lower than 0.5 basis points.

b. Current Assessment Rate Schedules for New Small Institutions

Current assessment rates applicable to new small institutions are set forth in Table 5 below.⁵⁹ New small institutions remain subject to the assessment schedules in Table 5 when the reserve

ratio reaches 2 percent or 2.5 percent.⁶⁰ As stated in the 2010 notice of proposed rulemaking describing the FDIC's comprehensive, long-term fund management plan, and adopted in a 2011 Final Rule, the lower assessment rate schedules applicable when the

reserve ratio reaches 2 percent and 2.5 percent do not apply to any new depository institutions; these institutions will remain subject to the assessment rates shown below, until they no longer are new depository institutions.⁶¹

⁵⁹ See 12 CFR 327.10(e)(1)(iv)(B). Subject to exceptions, a new depository institution is a bank or savings association that has been federally

insured for less than five years as of the last day of any quarter for which it is being assessed. See also 12 CFR 327.8(j).

⁶⁰ See 12 CFR 327.10(e)(1)(iv)(B).

⁶¹ See 75 FR 66272, 66283 (Oct. 27, 2010) and 76 FR 10672, 10686 (Feb. 25, 2011).

Table 5—Current Total Base Assessment Rate Schedule (After Adjustments)¹ Applicable to New Small Institutions for All Assessment Periods²

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
Initial Assessment Rate	9	14	21	32
Brokered Deposit Adjustment (added)	N/A	0 to 10	0 to 10	0 to 10
Total Base Assessment Rate	9	14 to 24	21 to 31	32 to 42

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

c. Current Assessment Rate Schedule for Insured Branches of Foreign Banks

Current assessment rates applicable to insured branches of foreign banks are

set forth in Table 6 below.⁶² The rates in Table 6 remain in effect unless and until the reserve ratio meets or exceeds 2 percent.⁶³ Progressively lower

assessment rate schedules for insured branches of foreign banks will become effective when the reserve ratio exceeds 2 percent and 2.5 percent.

Table 6—Current Initial and Total Base Assessment Rate Schedule¹ Applicable to Insured Branches of Foreign Banks²

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
Initial and Total Assessment Rate	5 to 9	14	21	32

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Initial and total base rates that are not the minimum or maximum rate will vary between these rates.

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B. Proposed Updates to Assessment Rate Schedules

The FDIC is proposing several updates to deposit insurance assessment rate schedules after considering the statutory factors and the current status of the DIF, as discussed below in section VII. of this Supplementary Information. As noted, the DIF is no longer operating under a Restoration Plan, and the reserve ratio is steadily progressing toward the 2 percent DRR.

1. Proposed 2 Basis Point Reduction in Initial Base Assessment Rate Schedules Applied to Small Institutions

The FDIC is proposing to decrease certain initial base deposit insurance assessment rate schedules by 2 basis points, beginning upon the effective date of any final rule. Specifically, the proposed 2 basis point decrease in initial base assessment rate schedules would apply to small institutions as defined under this proposal and would be applicable to established small institutions, new small institutions, and insured branches of foreign banks.

As earlier described, the FDIC is proposing to update the asset-based threshold in the assessment regulations used to define a small institution from \$10 billion in total assets to \$30 billion in total assets. Based on Call Report data as of December 31, 2025, raising the threshold from \$10 billion to \$30 billion would result in approximately 76 IDIs shifting from the large institution definition to the small institution definition for which the small institution pricing methodology and the proposed 2 basis point decrease in initial base assessment rate schedules would apply.

⁶² See 12 CFR 327.10(e)(2)(ii).

⁶³ In lieu of dividends, and pursuant to the FDIC's authority to set assessments, the progressively

lower initial base and total base assessment rates set forth in 12 CFR 327.10(e)(2)(iii) and (iv) will come into effect without further action by the FDIC Board

when the fund reserve ratio at the end of the prior assessment period reaches 2 percent and 2.5 percent, respectively.

The proposed initial base assessment rate schedules would remain in effect unless and until the reserve ratio meets or exceeds 2 percent. In lieu of dividends, the progressively lower initial base assessment rate schedules currently in the regulation would remain unchanged for small institutions and would come into effect without further action by the Board when the DIF reserve ratio at the end of the prior assessment period reaches 2 percent and 2.5 percent, respectively.⁶⁴

a. Analysis

Based on data as of December 31, 2025, a 2 basis point reduction in initial base assessment rate schedules applicable to banks that would meet the proposed definition of a small institution (generally, those under \$30 billion in total assets) is estimated to result in a decline in annual assessments of approximately \$917 million, or 7.5 percent of total annual assessments.

2. Proposed Updates to Assessment Rate Schedules Applied to Large and Highly Complex Institutions

a. Proposed Reduction in Initial Base Assessment Rates

The FDIC is also proposing to decrease initial base deposit insurance assessment rate schedules applicable to large and highly complex institutions by 1 basis point, beginning upon the effective date of any final rule.

b. Proposed Resolution Readiness Adjustment

The proposal would also establish a new downward assessment rate adjustment, the RRA, available to IDIs that meet the proposed definition of a large institution or that are highly complex institutions, and that elect to submit to testing of the institution's ability to populate a VDR with information that could be used to market a bank in the event of failure, and/or provide the FDIC prescribed data access, including access to an institution's service provider(s) and/or internal systems, to support readiness for the resolution of rapid failures.

In recognition of the expected reduction in losses to the DIF in the event of failure,⁶⁵ the FDIC is proposing to apply a downward adjustment of up to 1 basis point to assessment rates, available to large and highly complex

institutions that elect to participate, including 0.5 basis points for passing the VDR testing exercise and 0.5 basis points for providing prescribed data access, as described in section IV. of this Supplementary Information.⁶⁶

c. Proposed Revisions to Initial Base Assessment Rates When the Reserve Ratio Reaches 2 Percent and 2.5 Percent

Under the current regulation, progressively lower initial base assessment rate schedules applicable to large and highly complex institutions will come into effect when the reserve ratio reaches 2 percent and 2.5 percent, with minimum initial base assessment rates declining from 5 basis points to 2 basis points and 1 basis point, respectively.⁶⁷ Under the proposal, the minimum initial base assessment rates applied to large and highly complex institutions would still become progressively lower, declining from 4 basis points to 3 basis points and to 2 basis points when the reserve ratio reaches 2 percent and 2.5 percent, respectively, in order to incorporate the RRA into the assessment rate schedules.

This proposed revision to the initial base assessment rate schedules combined with the proposed allocation of adjustments described below have the result that a large or highly complex institution at the minimum initial base assessment rate could effectively achieve the maximum proposed RRA. This proposal would also maintain the same minimum total base assessment rates applicable to large and highly complex institutions as the rates in the current schedules that come into effect when the reserve ratio reaches 2 percent and 2.5 percent applicable to small banks.

d. Proposed Allocation of Assessment Rate Adjustments Applicable to Large and Highly Complex Institutions

Under the current assessment regulations, adjustments to the initial base assessment rates of institutions are made in the following order: (1) the unsecured debt adjustment can reduce an institution's assessment rate by the lesser of 5 basis points or 50 percent of the institution's initial base assessment rate; (2) the depository institution debt adjustment can increase an institution's assessment rate based on unsecured debt held by the institution that is issued by another depository institution;

and finally (3), the brokered deposit adjustment can increase an institution's assessment rate by up to 10 basis points.⁶⁸

The FDIC is proposing that the RRA would be applied to a large or highly complex institution's initial base assessment rate first, prior to the application of the other adjustments, and the unsecured debt adjustment would be limited to the lesser of 5 basis points or 50 percent of a large or highly complex institution's initial base assessment rate less any applicable RRA. Under the proposal, the allocation of, and limitations on, a small bank's rate adjustments would remain unchanged.

The proposed allocation of adjustments—specifically, allowing for an institution's initial base assessment rate to be reduced by up to the maximum RRA of 1 basis point before applying the unsecured debt adjustment—would have the result that a large or highly complex institution that is assigned an assessment rate that is the least risky, or the minimum initial base assessment rate, would be able to apply an unsecured debt adjustment of up to 1.5 basis points when the reserve ratio is less than 2 percent, as shown in Table 7. This maximum unsecured debt adjustment of 1.5 basis points would be equal to the maximum unsecured debt adjustment that could apply to a small institution assigned the minimum initial base assessment rate, and would also be equal to the maximum unsecured debt adjustment available prior to the 2023 increase in the rate schedules applied while the reserve ratio is less than 2 percent.

Similarly, when the reserve ratio exceeds 2 percent, allocating the RRA before the unsecured debt adjustment would result in a large or highly complex institution that is assigned the minimum initial base assessment rate being able to apply up to a 1 basis point unsecured debt adjustment, also shown in Table 7, and on par with a small institution assigned the minimum initial base assessment rate.

When the reserve ratio exceeds 2.5 percent, the proposed allocation would result in a large or highly complex institution that is assigned the minimum initial base assessment rate being able to apply up to a 0.5 basis point unsecured debt adjustment. As proposed, the 1 basis point RRA is equal to or exceeds the maximum unsecured debt adjustments of 1 basis point and 0.5 basis points available to large and highly complex institutions with the minimum initial base assessment rate in

⁶⁴ See 12 CFR 327.10(c) and (d).

⁶⁵ The FDI Act requires the FDIC to establish a risk-based assessment system for calculating an IDI's assessment based on the probability that the DIF will incur a loss with respect to that IDI and the likely amount of any such loss, among other factors. See 12 U.S.C. 1817(b)(1)(C).

⁶⁶ If a large or highly complex institution is affiliated with other IDIs, only an affiliate that is itself a large or highly complex institution would be eligible to seek a resolution readiness assessment adjustment.

⁶⁷ See 12 CFR 327.10(c) and (d).

⁶⁸ See *supra* fn 16.

the schedules applied when the reserve ratio is between 2 percent and 2.5 percent, and 2.5 percent or greater.

Table 7—Maximum Downward Adjustments for IDIs at the Minimum Initial Base Assessment Rate by Reserve Ratio

Reserve Ratio	RRA	Unsecured Debt Adjustment					
		Pre-2023	Current	Proposed	Pre-2023	Current	Proposed
	Large and Highly Complex Institutions			Small Institutions			
Less than 2%	-1.0 bps	-1.5 bps	-2.5 bps	-1.5 bps	-1.5 bps	-2.5 bps	-1.5 bps
2% to 2.5%	-1.0 bps	-1.0 bps	-1.0 bps	-1.0 bps	-1.0 bps	-1.0 bps	-1.0 bps
2.5% or Greater	-1.0 bps	-0.5 bps	-0.5 bps	-0.5 bps	-0.5 bps	-0.5 bps	-0.5 bps

In absence of these revisions, the maximum unsecured debt adjustment that a bank at the minimum initial base assessment rate could receive would decrease because the adjustment is limited to the lesser of 5 basis points or 50 percent of the bank's initial base assessment rate (or, in the case of the proposal, 50 percent of the bank's initial base assessment rate less any applicable RRA). For example, when the reserve ratio is equal to or greater than 2 percent but less than 2.5 percent, the minimum initial base assessment rate for large and highly complex institutions is 2 basis points. Under the current assessments regulations, a bank receiving the minimum initial base assessment rate of 2 basis points would have a maximum unsecured debt adjustment of 1 basis point. If the same bank under the proposal also received the full RRA of 1 basis point, its maximum unsecured debt adjustment would decline to 0.5 basis points.

Recognizing the significant benefit that the issuance of unsecured debt may have on potential losses to the DIF in the event of a bank failure, the proposed rate schedules would result in no change to the maximum unsecured debt adjustment for banks receiving the minimum initial base assessment rate in the rate schedules applied when the reserve ratio exceeds 2 percent. In the preceding example, the minimum initial base assessment rate for large and highly complex institutions would be 3 basis points and the maximum unsecured debt adjustment for a bank receiving the minimum would remain 1 basis point. In addition, under the proposed rate schedules, the minimum assessment

rate after all adjustments are applied would be the same for large and highly complex institutions and for small banks.

e. Timing of the Application of the Resolution Readiness Adjustment

As further described below in section IV. of this Supplementary Information, to be eligible for the RRA, a large or highly complex institution that wishes to opt into the RRA would submit a notice of election to the FDIC to participate in testing of the institution's ability to populate a VDR and/or to provide access to an institution's service provider(s) and/or internal systems to obtain detailed bank data needed to manage and market the bank in receivership.

f. Timing of the Component of the RRA for Data Access Engagement

The FDIC anticipates that the initial round of data access engagement would take approximately four years to complete for large or highly complex institutions that elect to participate. Under this proposal, the first 0.5 basis points of the RRA for providing the FDIC access to an institution's service provider(s) and/or internal systems to obtain detailed bank data needed to manage and market the bank in receivership would be applied at the beginning of the first full quarterly assessment period after the date on which the institution elects to participate. For instance, if an institution elected to participate on May 15, it would first be entitled to a 0.5 basis point adjustment for providing data access in the quarterly assessment

period beginning on July 1, for which payment would be invoiced and due in December.

If an institution fails to follow through on providing prescribed data access or does not provide information or access to personnel that the FDIC needs to assess the data, documents, and other materials that must be provided, the FDIC would cease application of the 0.5 basis point adjustment beginning the following quarterly assessment period. If this occurs in the initial data access engagement, the institution would be liable to reimburse the FDIC for an amount equal to the total amount of the 0.5 basis point component of the adjustment for data access the institution already received.

g. Timing of the Component of the RRA for VDR Testing

If the institution satisfies the requirements of the rule with respect to the VDR test, the FDIC would generally apply the 0.5 basis point component of the RRA beginning in the first quarterly assessment period after the institution passes the VDR test. However, as described further below, the FDIC will not initially apply the downward adjustment until all banks have completed the initial round of testing, to ensure that institutions who are tested sooner do not unfairly benefit from the timing of the tests.

h. Retesting and Follow-Up Data Access Engagements

Participating institutions would be subject to periodic retesting and follow-up data access engagements, as described in section IV. of this

Supplementary Information. If an institution receives an RRA, the institution would generally continue to receive the adjustment for each quarterly assessment period unless and until the institution does not successfully complete a future VDR test or declines to participate in subsequent data access engagement, at which point the institution's downward adjustment for the applicable component would cease to apply in the next quarterly assessment period.

i. Analysis

While the reserve ratio is less than 2 percent, the minimum total base assessment rate for large and highly complex institutions that receive the maximum proposed RRA would be 1.5 basis points, the same minimum that would apply to small institutions. The proposed minimum total base assessment rate of 1.5 basis points is 1 basis point lower than in the current schedule and is the same as the minimum total base assessment rate that was applicable prior to the 2023 increase in the assessment rate schedule in place while the reserve ratio is less than 2 percent.

The minimum total base assessment rates when the reserve ratio is equal to or greater than 2 percent are the same

for small, large, and highly complex institutions and are unchanged from the current schedules, which were not raised in 2023. The proposed revisions to the assessment rate schedules are illustrated in the tables below.

If all IDIs that meet the proposed definition of a large institution or that are highly complex institutions successfully participate in and pass the VDR exercise and provide the prescribed data access to achieve the maximum RRA of 1 basis point, the RRA combined with the proposed 1 basis point reduction in initial base assessment rates is generally estimated to result in a decline in annual assessments of approximately \$3.4 billion, or approximately 27.8 percent of total annual assessments, based on data as of December 31, 2025.

While the proposed reduction in the initial base assessment rates would be applied beginning with the effective date of any final rule, and the component of the RRA associated with data access engagement would be applied the quarterly assessment period following the institution's election, the effects of the component of the RRA associated with the initial VDR testing would not be applied until all institutions who initially elect to

participate have completed testing, which under the proposal the FDIC would complete within one year from the effective date of any final rule. In addition to the staggered timing for completion of the first cycle and application of the adjustment, the aggregate effect of the RRA is also contingent on the number of large and highly complex institutions that elect to participate in and successfully pass the VDR testing and provide the prescribed data access.

Expanded analysis of the aggregate expected effects of the proposal, evaluation of the costs and benefits, and consideration of the statutory factors are included below in sections VII. and VIII. of this **SUPPLEMENTARY INFORMATION**.

C. Proposed Assessment Rate Schedules

1. Proposed Assessment Rate Schedules for Established Small Institutions and Large and Highly Complex Institutions

Pursuant to the FDIC's authority to set assessments, the FDIC is proposing the following initial base assessment rates, adjustments, and total base assessment rates applicable to established small institutions and large and highly complex institutions set forth in Table 8 below.

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**Table 8—Proposed Total Base Assessment Rate Schedule (After Adjustments)
Applicable to Established Small Institutions and Large and Highly Complex
Institutions if the Reserve Ratio as of the End of the Prior Assessment Period is Less
Than 2 Percent^{1, 2}**

	Established Small Institutions			Large & Highly Complex Institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	3 to 16	6 to 30	16 to 30	4 to 31
Resolution Readiness Adjustment	N/A	N/A	N/A	-1 to 0
Unsecured Debt Adjustment ³	-5 to 0	-5 to 0	-5 to 0	-5 to 0
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10
Total Base Assessment Rate	1.5 to 16	3 to 30	11 to 30	1.5 to 41

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

³ The unsecured debt adjustment cannot exceed the lesser of 5 basis points or 50 percent of an insured depository institution's initial base assessment rate less any applicable resolution readiness adjustment; thus, for example, a large or highly complex institution with an initial base assessment rate of 4 basis points and a resolution readiness adjustment of 1 basis point will have a maximum unsecured debt adjustment of 1.5 basis points and cannot have a total base assessment rate of lower than 1.5 basis points.

The proposed assessment rate schedules applicable to established small institutions and large and highly complex institutions in Table 8 above would remain in effect unless and until

the reserve ratio meets or exceeds 2 percent.⁶⁹

The proposed initial base assessment rates, adjustments, and total base assessment rates in Table 9 below

would be in effect if the reserve ratio of the DIF as of the end of the prior assessment period is equal to or greater than 2 percent and less than 2.5 percent.

⁶⁹ In lieu of dividends, and pursuant to the FDIC's authority to set assessments, the progressively lower initial base and total base assessment rates set

forth in 12 CFR 327.10(c) and (d) will come into effect without further action by the Board when the fund reserve ratio at the end of the prior assessment

period reaches 2 percent and 2.5 percent, respectively.

**Table 9—Proposed Total Base Assessment Rate Schedule (After Adjustments)¹
Applicable to Established Small Institutions and Large and Highly Complex
Institutions if the Reserve Ratio as of the End of the Prior Assessment Period is
Equal To or Greater Than 2 Percent but Less Than 2.5 Percent²**

	Established Small Institutions			Large & Highly Complex Institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	2 to 14	5 to 28	14 to 28	3 to 29
Resolution Readiness Adjustment	N/A	N/A	N/A	-1 to 0
Unsecured Debt Adjustment ³	-5 to 0	-5 to 0	-5 to 0	-5 to 0
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10
Total Base Assessment Rate	1 to 14	2.5 to 28	9 to 28	1 to 39

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

³ The unsecured debt adjustment cannot exceed the lesser of 5 basis points or 50 percent of an insured depository institution's initial base assessment rate less any applicable resolution readiness adjustment; thus, for example, a large or highly complex institution with an initial base assessment rate of 3 basis points and a resolution readiness adjustment of 1 basis point will have a maximum unsecured debt adjustment of 1 basis point and cannot have a total base assessment rate of lower than 1 basis point.

The proposed initial base assessment rates, adjustments, and total base assessment rates in Table 10 below

would be in effect if the reserve ratio of the DIF as of the end of the prior

assessment period is equal to or greater than 2.5 percent.

**Table 10—Proposed Total Base Assessment Rate Schedule (After Adjustments)¹
Applicable to Established Small Institutions and Large and Highly Complex
Institutions if the Reserve Ratio as of the End of the Prior Assessment Period is
Equal to or Greater Than 2.5 Percent²**

	Established Small Institutions			Large & Highly Complex Institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	1 to 13	4 to 25	13 to 25	2 to 26
Resolution Readiness Adjustment	N/A	N/A	N/A	-1 to 0
Unsecured Debt Adjustment ⁴	-5 to 0	-5 to 0	-5 to 0	-5 to 0
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10
Total Base Assessment Rate	0.5 to 13	2 to 25	8 to 25	0.5 to 36

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

³ The unsecured debt adjustment cannot exceed the lesser of 5 basis points or 50 percent of an insured depository institution's initial base assessment rate less any applicable resolution readiness adjustment; thus, for example, a large or highly complex institution with an initial base assessment rate of 2 basis points and a resolution readiness adjustment of 1 basis point will have a maximum unsecured debt adjustment of 0.5 basis points and cannot have a total base assessment rate of lower than 0.5 basis points.

2. Proposed Assessment Rates for New Small Institutions

Pursuant to the FDIC's authority to set assessments, the proposed initial and total base assessment rates applicable to

new small institutions set forth in Table 11 below would take effect beginning upon the effective date of any final rule. New small institutions would remain subject to the assessment schedules in

Table 11, even when the reserve ratio reaches 2 percent or 2.5 percent, until they no longer were new depository institutions, consistent with current assessment regulations.

Table 11—Proposed Total Base Assessment Rate Schedule (After Adjustments)¹ Applicable to New Small Institutions for All Assessment Periods²

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
Initial Assessment Rate	7	12	19	30
Brokered Deposit Adjustment (added)	N/A	0 to 10	0 to 10	0 to 10
Total Base Assessment Rate	7	12 to 22	19 to 29	30 to 40

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

3. Insured Branches of Foreign Banks

Pursuant to the FDIC’s authority to set assessments, the proposed initial and

total base assessment rates applicable to insured branches of foreign banks set forth in Table 12 below would take

effect beginning upon the effective date of any final rule.

Table 12—Proposed Initial and Total Base Assessment Rate Schedule¹ Applicable to Insured Branches of Foreign Banks²

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
Initial and Total Assessment Rate	3 to 7	12	19	30

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Initial and total base rates that are not the minimum or maximum rate will vary between these rates.

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a. Alternatives Considered

In proposing the updates to assessment rate schedules, the FDIC considered a number of potential alternatives, including maintaining the current schedule of initial base assessment rates, applying higher or lower reductions to initial base assessment rates, applying higher or lower VDR and data access adjustments, and modifying the assessment rate schedules that apply when the reserve ratio exceeds 2 percent and 2.5 percent.

The FDIC also considered how the unsecured debt adjustment would interact with the RRA and the impact on the maximum unsecured debt adjustment applicable to large and highly complex institutions at the

minimum initial base assessment rates and at higher rates. The unsecured debt adjustment was adopted in recognition that, all else equal, greater amounts of long-term unsecured debt can reduce the potential loss to the DIF in the event of an IDI’s failure. The FDIC is proposing to adopt the RRA in recognition that a large or highly complex institution’s ability to both populate a VDR with information that could be used to market the bank in the event of its failure and provide the FDIC access to detailed bank data needed to manage and market the bank in receivership can improve resolution efficiencies and result in a reduction in losses to the DIF in the event of the institution’s failure. The FDIC recognizes that the proposed structure

creates a potential asymmetry in which the unsecured debt adjustment can be significantly greater than the RRA for institutions with higher initial base assessment rates, while the RRA would be equal to or greater than the unsecured debt adjustment for institutions with the minimum initial base assessment rate when the reserve ratio exceeds 2 percent, and seeks comment on this proposed structure.

Question 12: The FDIC invites comment on the proposal to revise deposit insurance assessment rates, beginning with the effective date of any final rule. How does the approach in the proposed rule support or not support the objectives of the FDIC’s comprehensive, long-range management plan for the DIF? What are the

advantages and disadvantages of the proposed reductions in assessment rates? Are there alternatives the FDIC should consider, and if so, why?

Question 13: The FDIC invites comment on the proposed RRA. What are the advantages and disadvantages of implementing such an adjustment? Is the calibration appropriate, and if not, why?

Question 14: The FDIC additionally invites comment on the proposed allocation of the RRA and incorporation into the assessment rate schedules. Are there alternative approaches for allocation or incorporation into the assessment rate schedules the FDIC should consider?

Question 15: Under the proposal, the unsecured debt adjustment would be limited to the lesser of 5 basis points or half of an institution's initial base assessment rate less any applicable RRA. As proposed, the 1 basis point RRA equals or exceeds the maximum unsecured debt adjustments of 1 basis point and 0.5 basis points available to large and highly complex institutions with the minimum initial base assessment rate in the schedules applied when the reserve ratio is between 2 percent and 2.5 percent, and 2.5 percent or greater. The FDIC invites comment on the relative allocation of these adjustments. Are there alternative allocations or limitations the FDIC should consider?

IV. Resolution Readiness Adjustment

Under the proposed rule, the FDIC would apply a downward resolution readiness adjustment to the assessment rate of a large or highly complex institution that elects to (1) submit to testing of the institution's ability to populate a VDR (VDR test) with information that could be used to market the bank in the event of its failure (VDR component) and/or (2) provide the FDIC access to an institution's service provider(s) and/or internal systems if the institution maintains its own proprietary data systems, to obtain detailed bank data needed to manage and market the bank in receivership (data access component).⁷⁰ The proposed RRA would be comprised of a 0.5 basis point adjustment for successfully passing a VDR test (VDR adjustment) and a 0.5 basis point adjustment for completing the data access component (data access adjustment) in recognition of the expected reduction in losses to the DIF

in the event of the failure of an institution that participates and completes both components.

A. Background

A large or highly complex institution's ability to quickly populate a VDR with complete, timely, and accurate information can be key to ensuring that the FDIC receives high quality bids in the event of the institution's failure, which would reduce the likely amount of loss to the DIF. From a marketing standpoint, an institution's ability to quickly populate a VDR is critical to ensuring necessary information on unique business lines can be supplied in a timely manner for bidders to evaluate the institution's franchise. Better information for bidders when marketing a franchise increases bid quality which, in turn, increases the likelihood that a failed bank will be acquired over the course of the weekend immediately following its entry into receivership. This also decreases the likelihood of needing to operate the bank as a bridge depository institution, which can further erode franchise value and increase costs to the DIF.

While having the ability to quickly populate a VDR is important for the rapid marketing and sale of a failed institution, directly accessing data from the institution's systems and/or its service provider(s), as applicable, would allow the FDIC to build out internal FDIC infrastructure to enable the FDIC to receive and process necessary data in the event of an institution's rapid failure. Additionally, the data would further enhance the quality and robustness of the information provided to potential bidders and enable the FDIC to more effectively operate an eventual receivership or, if needed, a bridge depository institution.

B. Election Process

Under the proposed rule, a large or highly complex institution that wishes to opt into the RRA would submit a notice of its election or elections to the FDIC. An institution's election would include certain information needed by the FDIC for the elected component or components. To support the VDR component, the institution's notice of election would provide the FDIC with the contact information of the institution's personnel with whom the FDIC should engage prior to the VDR test. To support the data access component, the institution's notice of election would provide the FDIC a complete list of all systems and applications maintained by itself and/or third-party vendor(s) that serve as core data processors for deposit and loan

data and the institution's general ledger, and a list of key personnel (including personnel of third-party vendors) needed to support and operate such systems and applications. The institution would also authorize the FDIC to communicate with, and request data from, its third-party vendors and acknowledge that any costs required to obtain any necessary data would be borne by the institution. The institution would be able to opt in to one of or both components of the RRA as part of its election, whether it be one election submission or two.

An institution that is a large or highly complex institution as of the effective date of any final rule would submit a notice of election to the FDIC within 30 days of the effective date of the rule. Such an institution would be eligible to receive a data access adjustment beginning in the assessment period following the institution's election, and would be eligible to receive a VDR adjustment beginning in the assessment period one year after the effective date of the final rule if the institution passes the VDR test.

Following the end of this 30-day period, institutions would still be able to make an election at any time. However, the FDIC would not conduct a VDR test of such an institution until after all institutions who initially opted in completed VDR tests, and the institution's VDR adjustment would not be available until after completing the VDR test. Additionally, an institution that is a large or highly complex institution on the effective date of the final rule that does not opt in to the data access component during the initial 30 days, but does opt in to the data access component within the initial four year period subsequent to the expiration of the initial 30 day period, will not receive the adjustment until two quarters after the end of the quarter in which the election is made, to discourage institutions from delaying making an election.

An institution that becomes a large or highly complex institution after the effective date of any final rule would be eligible to submit a resolution readiness adjustment election notice to the FDIC upon becoming a large or highly complex institution. Such an institution would be eligible to receive a data access adjustment beginning in the quarterly assessment period following the institution's election, and would be eligible to receive a VDR adjustment beginning in the quarterly assessment period after the institution passes the VDR test. Such an institution would not, however, receive the VDR adjustment

⁷⁰ If a large or highly complex institution is affiliated with other IDIs, only an affiliate that is itself a large or highly complex institution would be eligible to seek a resolution readiness assessment adjustment.

until the initial round of VDR testing is complete.

If an institution's notice of election for the data access component contains materially inaccurate information or the institution does not provide required information in its notice of election, the FDIC may notify the institution that it is no longer eligible for the data access adjustment. In that case, the data access adjustment would be removed beginning the next quarterly assessment period, and the institution would be liable to reimburse the FDIC for an amount equal to the amount of data access adjustment the institution received. The institution could seek to resume eligibility for the data access adjustment by submitting another notice of election.

C. VDR Test

In order to demonstrate its ability to adequately populate a VDR, a large or highly complex institution must be able to provide information under the below categories in a VDR set up by the FDIC within 48 hours of a request.⁷¹ These categories of information reflect the data and information that potential bidders have identified as most useful for conducting due diligence, especially when there is a short runway to an institution's failure:

1. Key financial information, including balance sheets, income statements, general ledgers (both consolidated and unconsolidated), and other relevant financial information;
2. Deposit data and information, including deposit tapes and data dictionary, and a report regarding key depositors (including key depositors by name and business segment, the amount of each key depositor's deposits, and a list of other services provided to such key depositors), though existing management reports are acceptable;
3. Loan and lending data and information, including loan tapes and data dictionary, and a report regarding key loan relationships (including key loan relationships by name and business segment, the amount of each outstanding loan of each key loan relationship, and a list of other services provided to such key loan relationships), though existing management reports are acceptable;
4. A sample of imaged loan files sufficient for a potential bidder to conduct due diligence to inform a potential bid;
5. Securities and investment portfolio information, including securities tapes and data dictionary;

6. A corporate organizational chart showing all financially or operationally significant entities, as well as a description of each of these entity's operations and role within the institution's operations, and licensing and regulatory information for each entity;

7. A list of key personnel identified by title, function, physical location, employing legal entity, and business line or business segment the individual supports, and if an individual is "dual hatted" at the institution and at one or more of its affiliates;

8. A list of material third-party contracts and a description of what services or business lines each contract supports;

9. Recent key internal risk management reports, such as assessments concerning credit, capital, liquidity, risk governance risks; and

10. Other information the institution believes is necessary to facilitate a rapid and effective due diligence process for the sale of the institution, as well as data or information requested by the FDIC in its notice concerning the timing of the institution's VDR test that is not covered by other items listed above.

FDIC resolution experience has shown that VDRs that can be quickly and accurately populated with key financial data and operational information are necessary for bidder due diligence and results in more and higher-quality bids.

1. Initial Timing of VDR Test

The FDIC anticipates that the initial round of VDR tests for institutions that are large or highly complex as of the effective date of the final rule would take up to one year from the effective date of the final rule. The FDIC would notify an institution not less than four weeks in advance of when it would conduct the VDR test, and on the date of the test, the institution would have 48 hours to populate the VDR.

2. Satisfaction of VDR Test

The institution would be considered to have satisfied the VDR test if (1) all of the required documents, data and information are uploaded to the virtual data room within 48 hours after the test begins, (2) the FDIC determines that the information and data uploaded is sufficient for a potential bidder to conduct adequate due diligence to inform a potential bid, including that the financial information provided is consistent with the general ledger, and (3) the institution provides the FDIC such information and access to such personnel of the institution as the FDIC in its discretion determines is relevant

to properly evaluate the documents and information uploaded to the VDR.

3. Results of VDR Test and Application of VDR Adjustment

The FDIC will notify the institution in writing concerning the results of its test. If the institution has satisfied the requirements of the rule with respect to the VDR test, it will be entitled to a VDR adjustment. The FDIC would retest an institution's capabilities with respect to the VDR test once every three years. In certain circumstances, such as when the FDIC determines that it can access certain important information in a timely manner in connection with data access engagement, the FDIC may waive aspects of future VDR tests. The FDIC would provide an institution with not less than four weeks' notice if it plans to retest an institution's VDR population capabilities. The FDIC may extend the timeline to more than three years at its discretion. The FDIC may do so if, for example, there is an increase in bank failures resulting in increased resources devoted to resolution activity. If an institution has experienced material changes with respect to its ability to populate a data room, such as undergoing a merger, the FDIC may conduct a retest in less than three years at its discretion. If the institution does not satisfy the requirements of the VDR test, the FDIC may offer the institution an opportunity to retake the test not less than one month after the initial test.

If the institution receives a 0.5 basis point adjustment for successfully completing the VDR test, the institution will continue to receive the adjustment for each quarterly assessment period unless and until the institution does not successfully complete a future VDR test, at which point the institution's downward adjustment would cease to apply in the next quarterly assessment period.

Under the proposal, because the VDR component is intended to incentivize banks to maintain the ability to produce robust information within a 48-hour timeframe, an institution would not be able to receive partial credit if it is able to produce the required data in a period longer than 48 hours, or if the institution is able to produce some but not all of the content required. The FDIC is seeking comment on whether partial credit should be offered.

D. Data Access

As discussed above, a large or highly complex institution will be entitled to the data access adjustment beginning in the first full assessment period after the date on which the institution submits its notice of election.

⁷¹ The FDIC would generally delete data shortly after concluding the test.

1. Initial Timing of Data Access Engagement

The FDIC anticipates that the initial round of engagement with respect to the data access component for electing institutions that are large or highly complex as of the effective date of the final rule would take four years from this date and therefore believes it appropriate to grant the data access adjustment upon submission of a notice of election rather than require institutions to wait until every institution has completed the process before applying adjustments. Furthermore, the FDIC believes it is generally unlikely an institution that elects to participate in the data access component will fail to ultimately qualify for the data access adjustment.

An institution that elects to participate in the data access component would be required to facilitate the FDIC's access to its data service provider(s) and/or any internal data systems. As noted above, the purpose of data access engagement by the FDIC would be to allow the FDIC to engage with service provider(s) and/or institution personnel to build out internal FDIC infrastructure to enable the FDIC to receive and process necessary data in the event of an institution's rapid failure. Specifically, the FDIC would seek access to such data service provider(s) and/or internal data systems in order to access and process the following data:⁷²

1. The institution's consolidated and unconsolidated ledger;
2. Core data regarding the institution's deposit portfolio, including:
 - a. Depositor and beneficiary information;
 - b. Deposit account title;
 - c. Deposit account type;
 - d. Deposit account balances, including principal and accrued interest;
 - e. Deposit account status;
 - f. Deposit account rate terms; and
 - g. Any other information about material characteristics of deposits;
3. Core data concerning the institution's loan portfolio, including:
 - a. Borrower, co-borrower, and guarantor information;
 - b. Loan balances, including charge offs;
 - c. Participation information;
 - d. Loan status;
 - e. Loan terms;
 - f. Loan type;
 - g. Collateral associated with each loan; and
 - h. Any other information about material characteristics of loans;

4. A list of key personnel (including those employed by third-party vendors) needed to support and operate each system and application used to produce data, information, and other materials listed above identified by name, title, employer, telephone number, and email address.

If an institution fails to follow through on providing prescribed data access or does not provide information or access to personnel that the FDIC needs to assess the data, documents, and other materials that must be provided, the FDIC would cease application of the adjustment beginning the following quarterly assessment period. If this occurs during the initial data access engagement, the institution would be liable to reimburse the FDIC for an amount equal to the amount of data access adjustment the institution received.

After the initial engagement, the institution must notify the FDIC within 30 days of any material changes to its internal data systems or data service providers that made the FDIC's prior engagement with respect to data access no longer relevant, such as when an institution engages a new data service provider with respect to the data that the FDIC would seek to collect in the event of the institution's failure. The FDIC anticipates that such notices would be rare. Failure to provide notice of material change may result in the data access adjustment being removed in the following assessment period and, potentially, liability for repayment if discovered after multiple assessment periods.

The FDIC will conduct follow-up engagements every seven years, except that the FDIC may (1) extend the timeline at its discretion or (2) conduct a follow-up engagement sooner than seven years in the event of a material change to an internal data system or data service provider. The FDIC would provide an institution with not less than four weeks' notice if it chooses to conduct a new engagement concerning an institution's data access capabilities.

If the institution qualifies for the data access adjustment after the first engagement, and then declines to participate in subsequent engagement, the data access adjustment will be removed in the assessment period following receipt of notice that it declines to participate, and the institution would not be liable to reimburse the FDIC.

Question 16: Please describe and quantify the costs that large and highly complex institutions would expect to incur in seeking the RRA? If possible,

please delineate costs by VDR test and data access engagement.

Question 17: Do commenters believe that the amount of the RRA is appropriately calibrated to recognize the potential reduction in losses to the DIF in the event of a large or highly complex institution's failure? If not, what would be a more appropriate calibration and why?

Question 18: Do commenters believe that the proposed rule asks for large and highly complex institutions to provide the correct set of data for a VDR test? What, if any, alternative data and information would potential bidders want access to in connection with the marketing of a failed bank and why? What other information in the possession of a large or highly complex institution would help facilitate competitive, high-quality bids? Should any of the data or information items requested under the proposal for purposes of the VDR test be removed under any final rule and, if so, why? Would this set of data benefit from more or less prescription in the rule and why?

Question 19: What, if any, other data would be useful to potential bidders, help improve the marketing process for a failed institution, or be useful to operate the institution if the FDIC is unable to solicit adequate bids over resolution weekend? Would this set of data benefit from more or less prescription in the rule and why?

Question 20: Does the information that must be populated in a VDR and to which access would be provided under the proposed rule overlap with information that is otherwise provided by large and highly complex institutions to the FDIC or information that is otherwise publicly available?

Question 21: Is the information that would be required to be submitted with respect to the election notice appropriate and sufficient to provide the FDIC an understanding of the institution's information technology systems in order to aid the FDIC in conducting testing under the proposed rule? What, if any, other information should a large or highly complex institution provide when seeking an adjustment?

Question 22: Are the timelines for the initial VDR test and data access engagement appropriate and, if not, why? What alternative timeframe, if any, would be more appropriate to ensure sufficient time for the FDIC to conduct testing under the proposed rule?

Question 23: To what extent would an appeals process be beneficial for situations in which the FDIC denies all or part of the resolution readiness adjustment?

⁷² The FDIC would generally delete data shortly after concluding the engagement.

Question 24: Should an institution be liable to reimburse the FDIC for an amount equal to the amount of the data access component of the RRA in the event that the institution elects to opt in but is subsequently notified that it failed to provide the prescribed data access? Should the application of the 0.5 basis point component of the RRA for satisfying the requirements of the data access engagement be applied after the engagement is completed and the institution is notified of their eligibility? If so, how would that be implemented?

Question 25: Should the proposal provide a partial adjustment for institutions that satisfy some, but not all, of the requirements of the VDR test? If so, how should the FDIC calibrate any partial adjustment? Should the FDIC consider partial credit of the VDR adjustment to be divided between a timeliness and information subcomponent? If so, what is an appropriate scoring for partial credit in each category?

Question 26: Do commenters believe that the categories of information requested with respect to the VDR test are sufficiently clear? Do institutions have existing internal management reports that could be used to populate a VDR, even on a partial basis, without having to generate additional reports and, if so, which types of existing internal management reports could be leveraged by institutions?

V. Other Proposed Amendments to Part 327

A. Conforming Amendments to the Assessment Regulations

The FDIC also is proposing conforming amendments to sections 327.8, 327.10, and 327.16 of the assessment regulations to effectuate the modifications described above. These conforming amendments would ensure that the proposed updates to the definitions, thresholds, and assessment rate schedules are properly incorporated into the assessments regulation provisions governing the calculations of an IDI's quarterly deposit insurance assessment. The FDIC is proposing revisions to section 327.10 to reflect the assessment rate schedules that would be applicable before and after the effective date of any final rule.

The FDIC is also proposing to revise the uniform amounts for small banks and insured branches of foreign banks in sections 327.16(a) and (d), respectively, to reflect the proposed 2 basis point decrease in initial base assessment rate schedules applicable to these institutions.

B. Technical Amendments to the Assessment Regulations To Remove Obsolete Provisions

The FDIC is proposing other technical amendments to its regulations governing deposit insurance assessments to remove obsolete provisions. Removal of these provisions, described below, will neither affect deposit insurance assessments nor result in new requirements for IDIs.

1. Surcharges and Assessments Required To Raise the Reserve Ratio of the DIF to 1.35 Percent in Section 327.11

As a technical change, the FDIC is proposing to rescind in its entirety 12 CFR 327.11 which includes provisions relating to surcharges and assessments required to raise the reserve ratio of the DIF to 1.35 percent that are no longer applicable.

2. Prepayment of Quarterly Risk-Based Assessments in 12 CFR 327.12

As a technical change, the FDIC is rescinding in its entirety 12 CFR 327.12, which includes provisions relating to the prepayment of quarterly risk-based assessments that are no longer applicable.

3. Implementation of One-Time Assessment Credit in 12 CFR part 327 Subpart B

As a technical change, the FDIC is proposing to rescind in its entirety 12 CFR 327 Subpart B which implemented a one-time assessment credit required by section 7(e)(3) of the FDI Act.⁷³

VI. Reporting

In December 2025, the FDIC, the Office of the Comptroller of the Currency, and the Board of Governors of the Federal Reserve System (the agencies), issued a Request for Information on Streamlining the Call Report.⁷⁴ The request offered the opportunity for interested stakeholders to identify ways that the agencies could streamline the Call Report forms and instructions while still meeting the purposes of the collection.

The agencies received several comments in response to the request addressing the collection of data on Schedule RC—O—Other Data for Deposit Insurance Assessments. Many of the comments on Schedule RC—O addressed line items that are used in the calculation of deposit insurance assessments for small, large, and highly complex institutions. Revisions to such

line items would generally require changes to the risk-based pricing methodologies in the assessment regulations. The FDIC continues to consider the comments received addressing line items on Schedule RC—O and is considering addressing those comments through a potential future proposal to amend risk-based deposit insurance pricing methodologies in the assessment regulations.

VII. Statutory Considerations and Expected Effects

A. Background

In setting assessment rates, the FDIC is required by statute to consider the following factors:

(i) The estimated operating expenses of the DIF.

(ii) The estimated case resolution expenses and income of the DIF.

(iii) The projected effects of the payment of assessments on the capital and earnings of IDIs.

(iv) The risk factors and other factors taken into account pursuant to section 7(b)(1) of the FDI Act (12 U.S.C. 1817(b)(1)) under the risk-based assessment system, including the requirement under such section to maintain a risk-based system.⁷⁵

(v) Other factors the FDIC has determined to be appropriate.⁷⁶

For purposes of statutory considerations and expected effects, the FDIC based its analysis on data as of December 31, 2025, including data from the Call Report and FFIEC 002 for the reporting period that ended December 31, 2025, reported as of February 16, 2026.

B. Deposit Insurance Fund Expenses and Income

As of December 31, 2025, the DIF balance totaled \$153.9 billion, an increase of \$16.8 billion from the previous year. Since second quarter 2023, the DIF balance has steadily increased, primarily from assessments earned. Assessments earned totaled \$13 billion for 2025. The weighted average assessment rate was approximately 5.6 basis points as of December 31, 2025, up 1.8 basis points from the weighted average assessment rate of 3.8 basis points for the assessment period ending June 30, 2022, just prior to the adoption of the 2022 final rule implementing a uniform increase in initial base deposit insurance assessment rate schedules of 2 basis points.⁷⁷ Net investment income

⁷³ See 12 U.S.C. 1817(e)(3). See also 71 FR 61374 (Oct. 18, 2006).

⁷⁴ 90 FR 55240 (Dec. 1, 2025).

⁷⁵ See *supra* fn 45.

⁷⁶ See *supra* fn 50.

⁷⁷ See *supra* fn 23.

further added to the DIF balance, totaling \$4.8 billion for 2025.

Operating expenses partially offset increases in the DIF balance, ranging between \$497 million and \$666 million on a quarterly basis for the past three years. Full-year operating expenses were \$2.4 billion for 2025, unchanged from 2024.

Losses from bank failures, or case resolution expenses, represent the largest potential expenses of the DIF. Except for 2023, the DIF has experienced low losses since 2016. Between 2016 and 2022, three banks per year failed, at an average annual cost to the DIF of about \$177 million. In 2023, five banks failed with estimated losses to the DIF of \$18.0 billion, excluding losses that are being recovered through the special assessment.⁷⁸ Since 2023, six institutions have failed as of May 2026,

with an estimated cost to the DIF of \$928 million.⁷⁹

The total number of institutions on the FDIC's Problem Bank List was 60 at the end of the fourth quarter of 2025, up by a net of three institutions from the previous quarter.⁸⁰ The number of problem banks represented 1.4 percent of total banks in the fourth quarter of 2025, which is in the normal range of 1 to 2 percent for non-crisis periods.

While future losses to the DIF are highly uncertain, FDIC-insured institutions reported strong earnings in 2025. Loan growth accelerated in 2025, as did domestic deposit growth. Asset quality metrics remained favorable overall despite continued weakness in certain portfolios. Unrealized losses reported by banks continued to decline from the second quarter 2022 peak but remained elevated relative to historical

conditions. The banking industry continued to have strong capital and liquidity levels, which support lending and protect against potential losses.

As shown in Table 13 below, the DIF balance has risen steadily since fourth quarter 2022, just prior to the 2 basis point increase in assessment rate schedules. Over the period from the fourth quarter 2022 to fourth quarter 2025, growth in the DIF balance outpaced growth in estimated insured deposits, resulting in continued growth in the reserve ratio—DIF balance as a percentage of estimated insured deposits. As previously noted, the reserve ratio further increased to 1.43 percent on March 31, 2026, up 15 basis points from the year-end 2024 and 28 basis points from year-end 2023.

Table 13—Fund Balance, Estimated Insured Deposits, and Reserve Ratio¹
[Dollar amounts in billions]

	4Q 2022	4Q 2023	4Q 2024	4Q 2025
Beginning Fund Balance	\$125.5	\$119.3	\$133.1	\$150.1
Plus: Assessments Earned ²	\$2.1	\$3.1	\$3.2	\$3.0
Plus: Net Investment Contributions and Other Income ³	\$1.1	\$0.8	\$1.1	\$1.3
Less: Loss Provisions ²	*	\$0.9	(\$0.4)	(\$0.1)
Less: Operating Expenses	\$0.5	\$0.6	\$0.7	\$0.6
Ending Fund Balance ⁴	\$128.2	\$121.8	\$137.1	\$153.9
Estimated Insured Deposits	\$10,273.6	\$10,626.1	\$10,683.0	\$10,821.8
Y-O-Y Growth in Est. Insured Deposits	3.8%	3.4%	0.5%	1.3%
Ending Reserve Ratio	1.25%	1.15%	1.28%	1.42%

*Absolute value less than \$50 million

¹ Source: FDIC Quarterly Banking Profile for Fourth Quarter 2025, Table 1-C. Insurance Fund Balances and Selected Indicators.

² Assessments earned and loss provisions do not include amounts collected toward or the receivable associated with the special assessment to recover estimated losses attributable to protecting uninsured depositors pursuant to the March 2023 systemic risk determination.

³ Net investment contributions include interest earned on investments and unrealized gains/losses on available-for-sale securities, while other income includes realized net gains on sale of investments, and all other income, net of expenses.

⁷⁸ Estimated losses do not include amounts associated with the special assessment to recover estimated losses attributable to protecting uninsured depositors pursuant to the systemic risk determination announced following the failures of Silicon Valley Bank and Signature Bank in March 2023. The FDIC is required by statute to recover such losses through a special assessment. See 12

U.S.C. 1823(c)(4)(G)(ii). See also 88 FR 83329 (Nov. 29, 2023) and 90 FR 59369 (Dec. 19, 2025).

⁷⁹ Loss estimates for failures that occurred between 2023 through 2026 as of March 31, 2026. FDIC BankFind Suite: Bank Failures & Assistance Data, available at: <https://banks.data.fdic.gov/bankfind-suite/failures>. See also "Anchor Bank Assumes Insured Deposits of Community Bank and

Trust—West Georgia, LeGrange, Georgia," May 1, 2026, available at: <https://www.fdic.gov/news/press-releases/2026/anchor-bank-assumes-insured-deposits-community-bank-and-trust-west-georgia>.

⁸⁰ "Problem" institutions are institutions with a CAMELS composite rating of "4" or "5" due to financial, operational, or managerial weaknesses that threaten their continued financial viability.

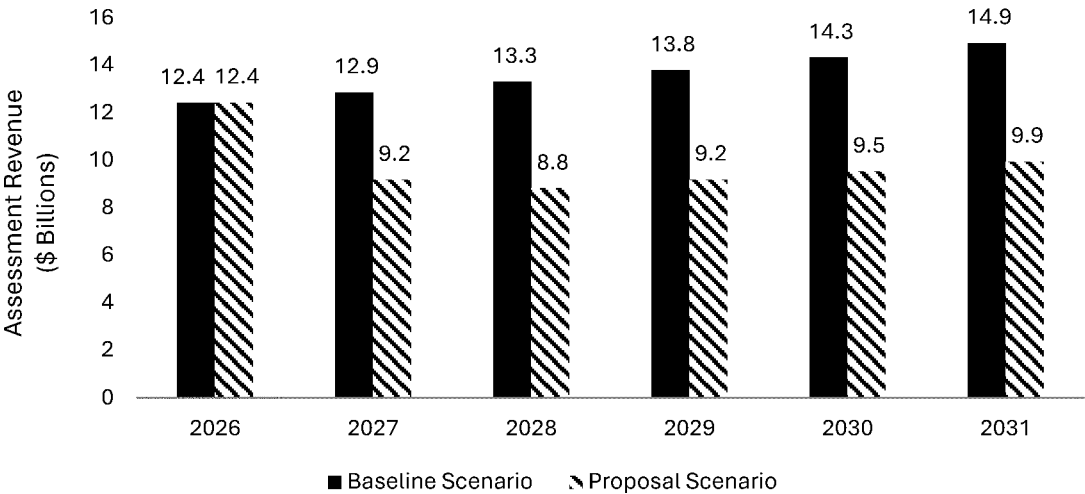
C. Projections for DIF Balance, Insured Deposits, and Reserve Ratio

In developing the proposal, the FDIC projected how changes to the threshold used to define small and large institutions and to rate schedules would affect assessment revenue and therefore growth in the DIF balance and reserve ratio, including when the reserve ratio would reach 2 percent. These projections assume the continuation of current trends, including low to moderate losses from bank failures, and do not contemplate a significant downturn in banking or economic conditions. Projections also assume no change in bank behavior. For example,

changes to assessment rates and pricing methodologies because of the proposal may motivate banks to adjust their risk profiles or practices, including changes to borrowing rates, deposits rates, or service fees. Any potential adjustments to bank behavior are unknown and therefore not incorporated into projections. The projections generally assume that changes to the definitions of small and large institutions and decreases to assessment rate schedules take effect at the beginning of 2027. Projections further assume that 75 percent of large and highly complex institutions elect to participate and receive assessment rate adjustments of 0.5 basis points for the

data access component of the RRA and 0.5 basis points for the VDR testing component of the RRA beginning in 2027 and 2028, respectively. The FDIC believes these are reasonable assumptions given the expected cost of initial and continued participation in the proposed engagement relative to the proposed assessment benefit. In total, the FDIC projects a decline in assessment revenue of \$3.7 billion in 2027 and \$22.6 billion, cumulatively, through 2031, as shown in Chart 1. By 2031, the DIF balance would be reduced by about \$24.6 billion under the proposal, which includes reduced investment income resulting from the decrease in assessment revenue.

Chart 1—Comparison of Projected Assessment Revenue Under Current Assessments Regulations (Baseline) and the Proposal

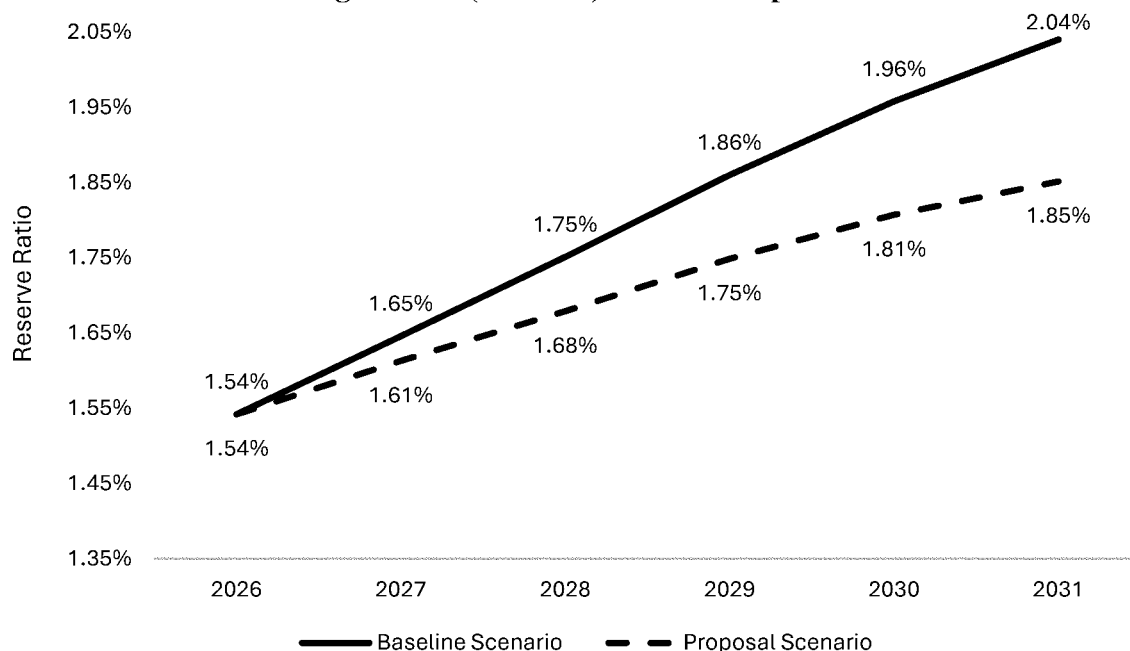


As a result of the reduced DIF balance relative to the baseline, the reserve ratio would rise under the proposal but at a slower pace than the baseline. Under

the baseline, the reserve ratio is projected to reach the current DRR by the end of 2031, as shown in Chart 2. Under the proposal, the reserve ratio is

projected to be 1.85 percent at the end of 2031 and would reach the 2 percent DRR in 2035.

Chart 2—Comparison of Projected Reserve Ratio Under Current Assessment Regulations (Baseline) and the Proposal



D. Projected Effects on Capital and Earnings

Consistent with section 7(b)(2)(B) of the FDI Act, the analysis that follows estimates the annual effect on equity capital and earnings of IDIs from the proposal. Specifically, the analysis considers the effects from raising the threshold defining a small institution and a large institution from \$10 billion to \$30 billion, decreasing initial base assessment rate schedules by 2 basis points for small institutions and by 1 basis point for large and highly complex institutions, and implementing the proposed RRA applicable to large and highly complex institutions.⁸¹

Data as of December 31, 2025, are used to calculate each bank's assessment base and risk-based assessment rate, absent the proposed changes. In 2025, the industry reported full-year net income of \$295.6 billion, up \$27.5 billion from full-year 2024. The industry's ROA increased to 1.20 percent from 1.12 percent the year prior. The increase was driven by higher net interest and noninterest income, which offset higher noninterest expense.

For institutions that would experience a change in assessment rates under the proposal, the immediate financial impact would be either (1) a decrease in assessment expense and a corresponding increase in pre-tax income; or (2) an increase in assessment

expense and a corresponding decrease in pre-tax income. To avoid the possibility of underestimating effects on bank earnings or capital, the analysis also assumes that the effects of the proposal are not transferred to customers in the form of changes in borrowing rates, deposit rates, or service fees.

A banking organization's earnings retention and dividend policies influence the extent to which changes in assessments affect equity levels. If an IDI maintains the same dollar amount of dividends when it recognizes the assessment expense, equity (retained earnings) will be increased by the full amount of the change in pre-tax assessments. This analysis instead assumes that an IDI would maintain a dividend rate (that is, dividends as a percentage of net income) equal to the weighted average rate reported over the four quarters ending December 31, 2025.

The analysis first reclassifies institutions using the proposed revised definitions of small and large institutions. As of December 31, 2025, there were approximately 76 IDIs that were priced as large institutions that would shift to the small bank pricing framework under the proposed definitions. For purposes of this analysis, none of these 76 IDIs are assumed to elect the one-time option to temporarily continue to be priced as a large institution and therefore are subject to the small bank pricing framework for the scenarios below.

The analysis next applies the proposed decrease in initial base assessment rate schedules of 2 basis points for small institutions and 1 basis point for large and highly complex institutions. The proposed changes to the definitions of small and large institutions combined with the proposed decreases in assessment rate schedules are estimated to result in an annual decrease in assessments of approximately \$2.7 billion.

The effect of these components of the proposal on bank earnings is measured by calculating the amount of (1) savings to institutions that would pay lower future assessments; or (2) losses to institutions that would pay higher assessments; as a percentage pre-tax income (hereafter referred to as "income").⁸² This income measure is used in order to eliminate the potentially transitory effects of taxes on profitability. The FDIC analyzed the impact of the proposal on the 4,103 institutions that were profitable based on their annual income from January 1, 2025, to December 31, 2025.⁸³

⁸² Annual income is assumed to equal income from January 1, 2025, through December 31, 2025, adjusted for mergers.

⁸³ Profitable institutions are defined as those having positive merger-adjusted income before taxes for the 12 months ending December 31, 2025. Analysis excludes nine insured branches of foreign banks and three institutions that reported an assessment base of zero as of December 31, 2025, as their estimated annual change in assessments as a percentage of income would be zero. Of the remaining 4,333 IDIs, 230 were unprofitable based

Continued

⁸¹ Equity capital is defined as capital (stock and/or surplus earnings) that is free of debt, calculated as assets less liabilities.

Table 14 shows the effects of the proposed definitions of small and large institutions, combined with the proposed decreases in assessment rate schedules, on profitable IDIs. Approximately 74.3 percent of profitable institutions are projected to experience a reduction in assessments of one percent or more of income from these components of the proposal. An additional 25.6 percent of profitable IDIs would experience an estimated decrease in assessments totaling less than one percent of income. Four institutions (0.1 percent) would experience an increase in assessments, with additional amounts totaling one percent or more of income for three institutions, and less than one percent of income for one institution.⁸⁴

Table 14—Estimated Annual Effect of Proposed Definitions of Small and Large Institution and Decreases to Assessment Rate Schedules¹

Estimated annual change in assessments as percent of income		Number of IDIs	Percent of IDIs	Assets of IDIs (\$ billions)	Percent of assets
Increase in Assessments	Over 10%	0	0	0	0
	5% to 10%	0	0	0	0
	1% to 5%	3	<1	40	<1
	Less than 1%	1	<1	30	<1
Decrease in Assessments	Less than 1%	1,050	26	20,086	80
	1% to 5%	2,842	69	4,585	18
	5% to 10%	131	3	227	<1
	Over 10%	76	2	27	<1
Total		4,103	100	24,995	100

¹ Income is defined as annual income before taxes from January 1, 2025 through December 31, 2025, adjusted for mergers. Profitable institutions are defined as those having positive income for the 12 months ending December 31, 2025. The table excludes nine insured branches of foreign banks and institutions that reported an assessment base of zero for December 31, 2025. Column totals may not add to total due to rounding.

Finally, the analysis includes the proposed RRA of 1 basis point, applicable to large and highly complex institutions that elect to participate. If 75 percent of large and highly complex institutions receive the maximum adjustment, the expected effect of all components of the proposal is an annual decrease in assessments of approximately \$4.0 billion. Table 15 shows the effects of the full proposal on profitable IDIs as of December 31, 2025. Approximately 75.2 percent of profitable institutions are projected to experience a reduction in assessments of one percent or more of income from the proposal, while 0.1 percent are projected to experience an increase in assessments totaling one percent or more of income because of the proposal. Approximately 24.2 percent of profitable IDIs would experience an estimated decrease in assessments totaling less than one percent of income and one institution would experience an estimated increase in assessments totaling less than one percent of income.

on average quarterly income from January 1, 2025, to December 31, 2025.

⁸⁴ Analysis of projected effects on capital and earnings excludes nine insured branches of foreign banks, given differences in reporting requirements between the Call Report and FFIEC 002, and three institutions that reported an assessment base of zero as of December 31, 2025. Four institutions are expected to pay higher assessments due to the proposed change in definition for small and large institutions. If those four institutions elect the one-time option to temporarily continue to be priced as large, they may pay lower assessments during the election period.

Table 15—Estimated Annual Effect of All Components of the Proposal¹

Estimated annual change in assessments as percent of income		Number of IDIs	Percent of IDIs	Assets of IDIs (\$ billions)	Percent of assets
Increase in Assessments	Over 10%	0	0	0	0
	5% to 10%	0	0	0	0
	1% to 5%	3	<1	40	<1
	Less than 1%	1	<1	30	<1
Decrease in Assessments	Less than 1%	1,012	25	11,198	45
	1% to 5%	2,880	70	13,474	54
	5% to 10%	131	3	227	<1
	Over 10%	76	2	27	<1
Total		4,103	100	24,995	100

¹ Income is defined as annual income before taxes from January 1, 2025 through December 31, 2025, adjusted for mergers. Profitable institutions are defined as those having positive income for the 12 months ending December 31, 2025. The table excludes nine insured branches of foreign banks and institutions that reported an assessment base of zero for December 31, 2025. Column totals may not add to total due to rounding.

The FDIC also considered the effects of the proposal on equity capital. The proposed changes to the assessment regulations are expected to increase tier 1 capital of IDIs by an estimated 16.3 basis points, on average, resulting from the estimated net decrease in annual assessments of \$4.0 billion.⁸⁵ No institutions are expected to fall below the minimum Tier 1 capital requirement as a result of the proposal.

VIII. Impact and Economic Analysis

This section evaluates the projected economic effect of the proposal relative to a baseline in which the proposal is not adopted. Specifically, the section discusses the expected material costs and benefits of the proposal to small

institutions and large and highly complex institutions.⁸⁶ Relevant regulations and financial data as of December 31, 2025, are generally used to estimate outcomes under the proposal and the baseline.

The proposal would update and provide for future indexing of the asset-based threshold used in the definitions of small and large institutions, decrease initial base assessment rate schedules by 2 basis points for small institutions and by 1 basis point for large and highly complex institutions, and provide a downward adjustment to assessment rates, including 0.5 basis points for passing virtual data room testing and 0.5 basis points for providing prescribed

data access to large and highly complex institutions electing to participate.⁸⁷

As of December 31, 2025, the FDIC insured 4,345 IDIs, including nine insured branches of foreign institutions. Table 16 breaks out these institutions by assessments pricing methodology as of December 31, 2025, under current regulations (baseline) and under the proposed changes to the definitions of small and large institutions. Excluding banks that may utilize the proposed one-time election for reclassified institutions to be temporarily priced using the large bank scorecard pricing methodology, 76 institutions would shift from the large bank pricing methodology to the small bank pricing methodology.

⁸⁵ Estimated effects on capital are calculated based on data reported as of December 31, 2025, on the Call Report.

⁸⁶ For purposes of the economic analysis, unless specified otherwise, small institutions include newly insured small institutions and insured

branches of foreign institutions. See sections III.C.2. and III.C.3. of this Supplementary Information for a discussion of assessment rates and schedules for these institutions.

⁸⁷ The proposal contains certain other technical amendments to the assessments regulations to

remove obsolete provisions. The FDIC anticipates these amendments will have little to no effect on deposit insurance assessments for IDIs. As such, the effects on IDIs due to these amendments under the proposal are likely to be *de minimis*.

Table 16. Institutions by Pricing Methodology as of December 31, 2025

Pricing Methodology	Baseline	Proposal
Established Small Institution	4,145	4,221
Large or Highly Complex Institution	150	74
Newly Insured Institution or Insured Branch of Foreign Institution ^a	50	50
Total	4,345	4,345

Source: FDIC Call Reports December 2025.

^a. Includes 41 newly insured small institutions (those insured less than five years) and nine insured branches of foreign institutions which are priced using a separate methodology and rate schedule.

A. Effects on all IDIs

Using data as of December 31, 2025, the FDIC estimates the proposal would result in an overall decrease in annual assessments of approximately \$4.0 billion (1.1 percent of 2025 pre-tax income) when aggregated across the 4,345 IDIs.⁸⁸

1. Distributional Effects on IDIs

Annualized assessments earned for all 4,345 IDIs based on data as of December 31, 2025, were \$12.3 billion in aggregate. Large banks, including highly complex institutions, would pay approximately 33 percent less in assessments under the proposal once revised rate schedules take effect and assuming 75 percent of institutions elect to participate and receive the full RRA (about one year after the effective date of the rule). Small banks, including newly insured institutions, insured branches of foreign banks and those newly defined as small banks under the proposal, would pay approximately 35 percent less in assessments under the proposal after the revised rate schedule take effect and the election for reclassified institutions to be priced as large concludes after eight quarters (about two years after the effective date of the rule). The annual reductions could be significant for smaller institutions which typically have higher operational costs relative to their size.⁸⁹

⁸⁸ See section VII.D., Capital and Earnings Analysis for more details on the estimated changes in annual assessments.

⁸⁹ See, e.g., Hughes, Joseph P., Jagtiani, Julapa, Mester, Loretta J., and Moon, Choon-Geol, "Does scale matter in community bank performance? Evidence obtained by applying several new measures of performance," *Journal of Banking & Finance*, Volume 106, 2019, <https://doi.org/10.1016/j.jbankfin.2019.07.005>; and Kovner, Anna and Vickery, James Ian and Zhou, Lily, "Do Big Banks Have Lower Operating Costs?" Federal Reserve Bank of New York, Economic Policy Review, Vol. 20, No. 2, 2014, <https://www.newyorkfed.org/medialibrary/media/research/epr/2014/EPRvol20no2.pdf>.

2. Effects Due to Reductions in Assessments

Institutions with reduced assessments under the proposal would have reduced noninterest expense commensurate with bank size. Affected IDIs could adjust their balance sheet in several ways. First, they could distribute more income to equity holders or retain additional earnings. Second, they could increase noninterest expenses by increasing salaries and employee benefits, expanding premises or fixed assets, or spending more on data processing or other expenses. Third, with reduced expenses related to holding deposits, banks could pay higher interest to depositors and thereby attract more deposits. Fourth, with reduced expenses related to holding deposits, banks could instead rebalance their asset portfolio, subject to their business models, and capital and other regulatory constraints.⁹⁰ The FDIC acknowledges that institutions could vary their responses and does not have the information necessary to quantify the range of responses.

Any difference in the rate of return between the DIF and how IDIs choose to employ any assessment reductions as a result of the proposal would produce a general welfare effect. As previously discussed, the FDIC does not have the information to forecast how IDIs will utilize the income resulting from the proposal and therefore cannot quantify any such effects.

B. Effects Specific to Small Institutions

As noted previously, under the proposal, the number of IDIs classified as small institutions, including newly

⁹⁰ Analysis of disparities in assessment rates from 1995 to 1996 found that banks with higher assessments shifted to longer maturity and higher yielding assets. See: Shoukry, George F., "Insurance Pricing, Distortions, and Moral Hazard: Quasi-Experimental Evidence from Deposit Insurance", *Journal of Financial and Quantitative Analysis*, 2024; Vol. 59(2), pages 896–932, <https://doi.org/10.1017/S0022109022001491>.

insured small institutions and insured branches of foreign institutions, under 12 CFR 327 would increase by 76 IDIs to 4,271. The FDIC estimates that these 4,271 IDIs would experience a collective decrease in annual assessments of approximately \$1.0 billion, under the proposal, relative to the baseline.⁹¹

1. Balance-Sheet Incentives Due to Reclassification

For the 76 reclassified institutions, differences between the large bank scorecard and the small bank pricing methodology would change their incentives to hold certain assets or liabilities under the proposal, which may result in changes in these institutions' balance sheet composition. As noted in section II.C. of this Supplementary Information, these differences arise because the small bank pricing methodology uses a different set of financial measures and weights based on how the measures corresponded with the probability of failure for small banks.⁹² The FDIC lacks specific data to anticipate how these institutions might adjust their operations or balance sheet compositions in response to the proposal.

2. Increased Flexibility for Small Institutions Under the Proposal With Assets Between \$10 Billion and \$30 Billion

The proposed change in the small institution threshold from \$10 billion to \$30 billion and the subsequent indexing

⁹¹ As discussed previously, institutions reclassified from large to small may experience a cliff effect after switching assessment pricing frameworks. Such institutions could mitigate any changes in assessment costs (and any costs associated with the loss of the option to request discretionary adjustments under the 2011 adjustment guidelines) using the proposal's one-time election to be priced temporarily using the large bank scorecard pricing methodology. See section II.E. for additional details.

⁹² For example, the reclassified banks' incentives to hold liquid assets or stable funding, which are directly tied to assessments in the large bank scorecard, would be reduced under the proposal.

that would be applied to the threshold would provide increased flexibility to all banks between these thresholds as well as banks close to \$10 billion. To the extent the \$10 billion threshold created barriers for banks to grow beyond it, increasing the threshold would allow more banks to determine size based on business needs rather than a regulatory threshold. Due to inflation, the nominal threshold contracts in real terms, so even a bank maintaining a stable operational size could potentially grow to over \$10 billion. As is described in the preamble, raising the threshold to \$30 billion would restore the original stratification of bank sizing, in terms of the distribution of banks across sizes. Moreover, indexing bank classification thresholds with CPI-W will improve transparency and predictability of regulatory requirements, allowing banks to plan operations with more certainty. For example, suppose that inflation is 2.5 percent, a bank of \$27 billion (10 percent below the proposed large-bank size threshold) could maintain steady operations in real terms for four years and remain below the nominal threshold. At that point, if the threshold rose in line with the CPI-W, the bank could expect to remain below the large bank threshold. As such, a bank with nominal growth could stay constant in real terms and experience greater regulatory certainty.⁹³

C. Effects Specific to Large or Highly Complex Institutions That Would Elect To Participate in VDR Testing and Provide Prescribed Data Access

This subsection discusses the large or highly complex institutions that would elect to participate in VDR testing and provide the prescribed data access, and the benefits and costs of that choice. The FDIC does not have data to predict the number of large or highly complex institutions that would elect to participate in, and successfully pass, VDR testing and provide the prescribed data access. For simplicity, and to provide a quantitative discussion of benefits and costs under the proposal, the FDIC assumes that 75 percent of institutions would elect to participate under the proposal.

⁹³ In a historical timeframe, the same approach to indexing would have resulted in fewer banks surpassing a given threshold. In 2021Q4, there were five banks with assets between 85% and 95% of \$30 billion (another bank was in the process of being acquired). Four years later, four of these banks had surpassed \$30 billion. If the \$30 billion value were adjusted for CPI-W growth, it would rise to \$35.6 billion. Only one of the five banks exceeded that size by 2025Q4. So, for this small set of banks near a size threshold (that was not binding at the time), 80% surpassed the threshold without indexing, but only 20% surpassed the threshold with indexing.

1. Benefits

As noted previously, under the proposal, the number of institutions classified as large and highly complex would decrease to 74. The FDIC estimates that the proposal would generally decrease annual assessments for these institutions by approximately 33 percent once all components of the proposal are implemented and assuming 75 percent of large and highly complex institutions elect to participate and receive the full RRA.

Institutions that elect to complete one or both resolution readiness components would directly benefit from a decrease in assessments, which if invested, could earn additional returns. Institutions that elect to complete one or both components would demonstrate readiness for rapid resolution which could pose benefits to the institution and to the FDIC, both before and during the resolution process. For example, the VDR testing and data access engagement could provide information to participating IDIs that may help optimize their business or identify ways to reduce their risk of loss. In the event of failure, the FDIC may need less time to set up a VDR. Providing access to more complete, timely, and accurate data during the bidding process could also preserve the franchise value of the institution, decrease administrative costs of the receivership, and in turn, reduce costs to the DIF in the event of a failure.⁹⁴

2. Reporting Burden

As discussed above, the FDIC assumes 75 percent of large and highly complex institutions would elect to participate in and complete both the VDR and data access components. The total estimated voluntary burden borne by these 56 institutions in the first three years under the proposal would be approximately 3,893 hours per year.⁹⁵ Using an estimated wage rate of \$110.95⁹⁶ per

⁹⁴ Academic research suggests that the higher the cost of due diligence and, more generally, the less relevant information available about a failing institution, the more difficult it becomes for potential acquirers to determine a profitable bidding strategy in the auction. *See, e.g.,* Granja, João, "The Relation Between Bank Resolutions and Information Environment: Evidence from the Auctions for Failed Banks," *Journal of Accounting Research*, 2013, Vol. 51 (5), <https://doi.org/10.1111/1475-679X.12028> and references therein.

⁹⁵ *See* section X.A for additional details. The estimated number of respondents for the data access component is $\frac{3}{4}$ of 56, or 42 institutions, because of the four-year cycle for that component.

⁹⁶ The FDIC's estimated allocations of labor associated with the reporting compliance burden for institutions that would elect to participate in and complete the VDR and data access components reflects an assumption that the majority will be attributable to financial analysts (including

hour, this would amount to total estimated reporting costs of approximately \$431,928 annually for the participating institutions (constituting less than half a percent of their aggregate total noninterest expenses).⁹⁷

3. Additional Economic Considerations and Effects

Institutions that elect to participate would likely incur some regulatory costs, in addition to the reporting costs presented above, to transition their internal systems and processes. The FDIC does not have access to information that would enable it to estimate such costs. However, the FDIC expects that such costs are likely to be small relative to the size of the institutions.

Under the proposal, when the designated reserve ratio is less than 2 percent, the application of the unsecured debt adjustment would start from a lower base assessment rate (after factoring in the downward adjustments) for a large or highly complex institution that elects to participate in and complete both the VDR and data access components.⁹⁸ As of December 2025, 45 large or highly complex institutions received an unsecured debt adjustment under the baseline. For such institutions, participation in the VDR and data access components may change their preferences for the funding mix.

The proposal would revise the assessment rate schedules for large and highly complex institutions when the designated reserve ratio reaches its statutorily mandated level of 2 percent. The revised assessment rates would maintain the adjustments for institutions participating in the VDR and data access components and for

accountants and risk management specialists) and information technology occupations, with executives and managers, and legal occupations accounting for the remaining balance. The estimated weighted average hourly compensation cost of these employees are found by using the 75th percentile hourly wages reported by the Bureau of Labor Statistics (BLS) National Industry-Specific Occupational Employment and Wage Estimates for the relevant occupations in the Depository Credit Intermediation sector, as of May 2024. These wages are adjusted to account for inflation and non-monetary compensation rates for health and other benefits, as of March 2024, to provide a comprehensive estimate of overall compensation.

⁹⁷ The burden excludes any costs incurred by the FDIC to set up and administer the program. This analysis does not quantify the proposal's effect on FDIC administrative costs.

⁹⁸ For a large or highly complex institutions that receives the downward resolution readiness adjustment under the proposal, the unsecured debt adjustment is limited to the lesser of 5 basis points or 50 percent of the bank's initial base assessment rate less any applicable RRA.

their unsecured debt while recognizing the reduced need for assessment collections. Such changes may perpetuate changes to the long-run optimal funding mix for large and highly complex institutions, relative to the baseline levels. The FDIC does not have data on institutions' business models, or associated costs/benefits of changes in their funding mix in future periods to predict their responses to this aspect of the proposal.

Finally, any additional costs that institutions incur after electing to complete both the resolution readiness components may not have significant adverse impacts on the provision of banking services such as originating and servicing loans, processing payments, or various financial market activities that the institutions may be involved in. This analysis illustrates that estimated reporting costs in future years would constitute less than half a percent of current noninterest expenses⁹⁹ for all large and highly complex institutions.

Overall, the FDIC expects that institutions that elect to participate would likely not do so if they determine the costs to be significantly greater than the benefits.

D. Effects on the Deposit Insurance Fund and Safety and Soundness

While the estimated reductions in assessments under the proposal would result in a reduced DIF balance relative to the baseline, as described previously, the FDIC expects a reduction in the losses to the DIF in the event of the failure of a large or highly complex institution that would elect to participate and complete the resolution readiness components. The reclassification of some institutions under the proposal from large to small would focus the overall assessment framework on the most salient aspects of an institution's risk profile. This focus would promote institutions' safety and soundness while reducing assessment burden and enabling additional economic activity.

E. Conclusion

The proposal, if finalized, would provide meaningful economic relief to IDIs through lower assessment rates. The proposal would lower the assessment rate by 2 basis points for small institutions and 1 basis point for large and highly complex institutions. Additionally, it would establish VDR test and data access engagement that would provide meaningful downward

adjustments to assessment rates for large and highly complex institutions that would elect to participate. In total, the proposal would result in an estimated reduction of approximately \$4.0 billion (approximately 33 percent) in annual deposit insurance assessments, once revised rate schedules take effect and assuming 75 percent of large and highly complex institutions elect to participate and receive the full RRA.

Provisions in the proposed rule would provide additional benefits to the banking industry. The increase in the large institution threshold and indexing thereof would increase flexibility to affected IDIs, especially to those with total assets near \$10 billion for whom the current threshold imposes disincentives to grow. The VDR test and data access engagement would provide information to participating IDIs that may help optimize their business or identify ways to reduce their risk of loss. The information gleaned from these tests would reduce losses to the DIF in the event of the failure of a large or highly complex institution, which would mitigate the reduced DIF revenue growth. As described previously, participating institutions could experience voluntary reporting burdens (constituting less than half a percent of their aggregate total noninterest expenses). Such institutions could also incur regulatory burdens to transition their internal systems and processes, which are likely to be small. The FDIC expects that institutions that elect to participate would likely not do so if they determine the costs to be greater than the benefits.

Proposed technical changes to 12 CFR 327 and removal of unnecessary or obsolete provisions would also provide benefits to the banking industry and the public through increased clarity and improved ease of references.

Given the effects described above, the FDIC expects the benefits of the proposal to justify its costs. The FDIC invites comments on this analysis. The FDIC is particularly interested in comments on any material economic effects that the agency has not identified.

IX. Request for Comment

In addition to its request for comment on specific parts of the proposal, the FDIC seeks comment on all aspects of this proposed rulemaking.

Elements of the proposal, including the proposed reduction in initial base assessment rate schedules and the update to the \$10 billion asset threshold in the definitions of small and large institutions to \$30 billion, would address comments received from the

Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA) public notices.¹⁰⁰

X. Regulatory Analysis

A. Paperwork Reduction Act

This notice of proposed rulemaking has been reviewed for compliance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). In accordance with the PRA, the FDIC may not conduct or sponsor, and an organization is not required to respond to, an information collection unless the information collection displays a currently valid Office of Management and Budget (OMB) control number. The FDIC has reviewed the notice of proposed rulemaking and determined that it would introduce new information collection requirements pursuant to the PRA and necessitate clarification of the instructions to reporting for depository institutions.

The FDIC is seeking a new control number for these information collection requirements and will submit them to OMB for review and approval.

Proposed Information Collection

Title: Resolution Readiness

Adjustments.

OMB Control No.: 3064–NEW.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Description: Among other things, the proposal would provide a downward resolution readiness adjustment to assessment rates for large and highly complex institutions, including 0.5 basis points for passing virtual data room testing and 0.5 basis points for providing the prescribed data access. The information collection requirements in the proposed rule are as follows:

Section 327.18(d) would allow a large or highly complex financial institution to submit to the FDIC a notice of election to participate in the resolution readiness adjustment.

Section 327.18(e) would allow a large or highly complex financial institution

¹⁰⁰ The EGRPRA requires that regulations prescribed by the Federal Financial Institutions Examination Council, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, and Board of Governors of the Federal Reserve System be reviewed by the agencies not less frequently than once every 10 years. The purpose of the EGRPRA review is to identify outdated or unnecessary regulations and consider how to reduce regulatory burden on insured depository institutions while, at the same time, ensuring their safety and soundness and the safety and soundness of the financial system. Public Law 104–208, Div. A, Title II, section 2222, 110 Stat. 3009–414 (1996) (codified at 12 U.S.C. 3311). See also Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996, 90 FR 35241 (Jul. 25, 2025).

⁹⁹ FDIC Call Report data as of March 31, 2025 through December 31, 2025, reported as of February 16, 2026.

to submit to the FDIC information relating to the virtual data room capabilities test.

Section 327.18(f) would allow a large or highly complex financial institution

to submit to the FDIC information relating to the data access capabilities test.

Section 327.18(f)(3)(i) would allow a large or highly complex financial

institution to submit to the FDIC information relating to a material change notice.

BILLING CODE 6714-01-P

Summary of Estimated Annual Burden (OMB No. 3064-NEW)

Information Collection (IC) (Obligation to Respond)	Type of Burden (Frequency of Response)	Number of Respondents	Annual Number of Responses per Respondent	Time per Response (HH:MM)	Annual Burden (Hours)
1. Election for resolution readiness adjustment, 12 CFR 327.18(d) (Required to Obtain or Retain a Benefit)	Reporting (On Occasion)	56	.333	8:00	152
2. Virtual data room capabilities test, 12 CFR 327.18(e) (Required to Obtain or Retain a Benefit)	Reporting (On Occasion)	56	.333	109:00	2,027
3. Data access capabilities, 12 CFR 327.18(f) (Required to Obtain or Retain a Benefit)	Reporting (On Occasion)	42	.333	119:00	1,666
4. Material change notice, 12 CFR 327.18 (f)(3)(i) (Required to Obtain or Retain a Benefit)	Reporting (On Occasion)	1	1	4:00	4

Total Annual Burden (Hours): 3,893

Note: The estimated annual information collection time burden is the product, rounded to the nearest hour, of the estimated annual number of responses and the estimated time per response for a given IC. The estimated annual number of responses is the product, rounded to the nearest whole number, of the estimated annual number of respondents and the estimated annual number of responses per respondent. This methodology ensures the estimated annual burdens in the table are consistent with the values recorded in OMB's consolidated information system.

BILLING CODE 6714-01-C

This final rule will also necessitate clarifications of the instructions to reporting for depository institutions. The FDIC will coordinate with the Office of the Comptroller of the Currency and Board of Governors of the Federal Reserve System, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), to separately address such clarifications to the instructions to the Consolidated Reports of Condition and Income (Call Report) (FFIEC 031, FFIEC 041, and FFIEC 051; OMB Nos. 1557-0081; 3064 0052, and 7100-0036).

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility;

(b) The accuracy of the estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

All comments will become a matter of public record. Comments on aspects of this proposed rule that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the address listed in the **ADDRESSES** section. Written comments and recommendations for this information collection also should be sent within 60 days of publication of this document to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 60-day Review—Open for Public Comments" or by using the search function.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a proposed rule, to

prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.¹⁰¹ However, an initial regulatory flexibility analysis is not required if the agency certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined "small entities" to include banking organizations with total assets of less than or equal to \$850 million.¹⁰² Generally, the FDIC considers a significant economic impact to be a quantified effect in excess of 5 percent of total annual salaries and benefits or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of one or more of these thresholds typically represent significant economic impacts for FDIC-supervised institutions.

Certain types of rules, such as rules relating to rates, corporate or financial structures, or practices relating to such rates or structures, are expressly excluded from the definition of "rule" for purposes of RFA.¹⁰³ Because the proposed rule relates directly to the assessment rates imposed on insured depository institutions for deposit insurance and to the deposit insurance assessment system that determines each bank's assessment rate, the proposed rule is not subject to RFA. Nonetheless, the FDIC is voluntarily presenting the following information and is seeking

comment on whether, and the extent to which, the proposed rule would affect small entities.

As noted above, the FDIC is proposing several revisions to its risk-based deposit insurance assessment framework. The FDIC is proposing to: (1) update definitions of small and large institutions;¹⁰⁴ (2) decrease initial base assessment rate schedules by 2 basis points for small institutions and by 1 basis point for large and highly complex institutions; (3) and provide a downward adjustment of up to 1 basis point for large and highly complex institutions based on their election to participate in the virtual data room testing and data access exercise. In addition, the FDIC is proposing to make certain technical amendments to the assessment regulations to remove obsolete provisions.

As of December 31, 2025, the FDIC insured 4,345 institutions,¹⁰⁵ of which 2,996 were "small entities" for purposes of RFA. The proposed 2 basis point reduction in initial base assessment rate schedules for small institutions is the only aspect of the proposed rule that would affect small entities, because no small entities have over \$10 billion in assets, and no small entities are large or highly complex institutions.

As mentioned previously, all small entities would see a 2 basis point reduction in their initial base assessment rate. Based on Call Report data as of December 31, 2025, the FDIC estimates that only two small entities would experience reduced assessment costs in excess of 5 percent of total annual salaries and benefits or 2.5 percent of total noninterest expenses. Thus, the proposed 2 basis point assessment reduction is unlikely to result in a significant impact on a substantial number of small entities.

The FDIC welcomes comments on any aspect of the information presented in

¹⁰¹ 5 U.S.C. 601 *et seq.*

¹⁰² The SBA defines a small banking organization as having \$850 million or less in assets, where an organization's "assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year." See 13 CFR 121.201 (as amended by 87 FR 69118, effective Dec. 19, 2022). In its determination, the "SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates." See 13 CFR 121.103. Following these regulations, the FDIC uses an insured depository institution's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the insured depository institution is "small" for the purposes of RFA.

¹⁰³ 5 U.S.C. 601.

¹⁰⁴ Note that the definition of small institution at 12 CFR 327.8(e) encompasses all "small entities", as defined by the RFA.

¹⁰⁵ Analysis is based on data from the Call Report for the reporting period that ended December 31, 2025, reported as of February 16, 2026.

the Regulatory Flexibility Act section and requests comment on whether the proposed rule has a significant effect on a substantial number of small entities.

C. Riegle Community Development and Regulatory Improvement Act

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA),¹⁰⁶ in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on IDIs, each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on affected depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of the RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form. The FDIC invites comments that further will inform its consideration of the RCDRIA.¹⁰⁷

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act¹⁰⁸ requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. The FDIC invites your comments on how to make this proposed rule easier to understand, including the following:

- Has the FDIC organized the material to suit your needs? If not, how could the proposed rule be more clearly stated?
- Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?
- Does the proposed rule contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rule easier to understand? If so, what changes to the format would make the proposed rule easier to understand?

- What else could the FDIC do to make the proposed rule easier to understand?

E. Executive Orders 12866, 13563, and 14192

Executive Order 12866 directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This proposed rule was drafted and reviewed in accordance with Executive Order 12866. Within OMB, the Office of Information and Regulatory Affairs (OIRA) has determined that this rulemaking is a “significant regulatory action” under section 3(f)(1) of Executive Order 12866. Accordingly, the draft rule was submitted to OIRA for review. As noted in other sections of the **SUPPLEMENTARY INFORMATION** of this document, the FDIC has assessed the costs and benefits of this rulemaking and has made a reasoned determination that the benefits of this rulemaking justify its costs. Executive Order 14192, titled “Unleashing Prosperity Through Deregulation,” was issued on January 31, 2025. Section 3(a) of Executive Order 14192 requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation. In furtherance of this standard, section 3(c) of Executive Order 14192 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations. This proposed rule, if finalized as proposed, is not expected to be a regulatory action under Executive Order 14192.

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, Banking, Savings associations.

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation proposes to amend 12 CFR part 327 as follows:

PART 327—ASSESSMENTS

- 1. The authority citation for part 327 continues to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817–19, 1821, 1823.

- 2. Amend § 327.4(c) by removing “(§ 327.16(f)(3))” after the word “institution” in the third sentence.

- 3. Amend § 327.8 by revising paragraphs (e), (f), and (g) to read as follows:

* * * * *

(e) *Small institution.*

(1) *In general.* An insured depository institution with total assets of less than \$30 billion, excluding assets as described in § 327.17(e), as of [effective date of rule], and an insured branch of a foreign institution shall be classified as a small institution.

(2) *Transition from large to small institution.* Except as provided in paragraph (e)(3) of this section, if an institution classified as large under paragraph (f) of this section reports total assets of less than \$30 billion in its quarterly reports of condition for four consecutive quarters after [effective date of rule], excluding assets as described in § 327.17(e), the FDIC will reclassify the institution as small beginning the following quarter.

(3) *CBLR exception.* An insured depository institution that elects to use the community bank leverage ratio framework under 12 CFR 3.12(a)(3), 12 CFR 217.12(a)(3), or 12 CFR 324.12(a)(3), shall be classified as a small institution, even if that institution otherwise would be classified as a large institution under paragraph (f) of this section.

(4) *One-time election.* An institution with total assets of more than \$10 billion but less than \$30 billion as of [effective date of rule] that was classified as large under paragraph (f) of this section for [the assessment period immediately preceding effective date of rule] may elect to continue to be classified as large until [eight quarters from effective date of rule].

(i) An institution that makes this election will be classified as small starting [ninth quarter after effective date of rule] if it reports total assets less than \$30 billion in its quarterly reports of condition for the quarter ending [eighth quarter after effective date of rule].

(ii) An institution that makes this election and reports total assets of \$30 billion or more for four consecutive quarters will be classified as a large institution until it is reclassified as small under paragraph (e)(2) of this section.

(iii) An institution that makes this election will not be subject to the resolution readiness adjustment under § 327.18 unless it satisfies the definition of large or highly complex institution because it reports total assets of \$30 billion or more for four consecutive quarters.

(f) *Large institution.*

¹⁰⁶ 12 U.S.C. 4802(a).

¹⁰⁷ 12 U.S.C. 4802(b).

¹⁰⁸ Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999), 12 U.S.C. 4809.

(1) *In general.* An insured depository institution with total assets of \$30 billion or more, excluding assets as described in § 327.17(e), as of [effective date of rule] (other than an insured branch of a foreign bank or a highly complex institution) shall be classified as a large institution.

(2) *Transition from small to large institution.* If an institution classified as small under paragraph (e) of this section reports total assets of \$30 billion or more in its quarterly reports of condition for four consecutive quarters after [effective date of final rule], excluding assets as described in § 327.17(e), the FDIC will reclassify the institution as large beginning the following quarter.

(g) *Highly complex institution.*

(1) * * *

(2) Control has the same meaning as in section 3(w)(5) of the FDI Act. A U.S. parent holding company is a parent holding company incorporated or organized under the laws of the United States or any State, as the term “State” is defined in section 3(a)(3) of the FDI

Act. If, after December 31, 2010, an institution classified as highly complex under paragraph (g)(1)(i) of this section falls below \$50 billion in total assets in its quarterly reports of condition for four consecutive quarters, or its parent holding company or companies fall below \$500 billion in total assets for four consecutive quarters, the FDIC will reclassify the institution beginning the following quarter. If, after December 31, 2010, an institution classified as highly complex under paragraph (g)(1)(ii) of this section falls below \$10 billion in total assets for four consecutive quarters, the FDIC will reclassify the institution beginning the following quarter.

* * * * *

■ 4. Amend § 327.10 by revising paragraphs (a) through (e) to read as follows:

§ 327.10 Assessment rate schedules.

(a) Assessment rate schedules for established small institutions and large and highly complex institutions

applicable in the first assessment period after December 31, 2022, and in all subsequent assessment periods through the assessment period ending [the quarter prior to the quarter during which a final rule becomes effective], where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent.

(1) *Initial base assessment rate schedule for established small institutions and large and highly complex institutions.* In the first assessment period after December 31, 2022, and for all subsequent assessment periods through the assessment period ending [the quarter prior to the quarter during which a final rule becomes effective], where the reserve ratio as of the end of the prior assessment period is less than 2 percent, the initial base assessment rate for established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be the rate prescribed in the schedule in the following table:

TABLE 1 TO PARAGRAPH (a)(1) INTRODUCTORY TEXT—INITIAL BASE ASSESSMENT RATE SCHEDULE BEGINNING THE FIRST ASSESSMENT PERIOD AFTER DECEMBER 31, 2022, AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS THROUGH THE ASSESSMENT PERIOD ENDING [THE QUARTER PRIOR TO THE QUARTER DURING WHICH A FINAL RULE BECOMES EFFECTIVE], WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT¹

	Established small institutions			Large & highly complex institutions
	CAMELS composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	5 to 18	8 to 32	18 to 32	5 to 32

¹ All amounts for all risk categories are in basis points annually. Initial base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS composite 1- and 2-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 5 to 18 basis points.

(ii) *CAMELS composite 3-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 8 to 32 basis points.

(iii) *CAMELS composite 4- and 5-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 18 to 32 basis points.

(iv) *Large and highly complex institutions initial base assessment rate schedule.* The annual initial base assessment rates for all large and highly complex institutions shall range from 5 to 32 basis points.

(2) *Total base assessment rate schedule after adjustments.* In the first

assessment period after December 31, 2022, and for all subsequent assessment periods through the assessment period ending [the quarter prior to the quarter during which a final rule becomes effective], where the reserve ratio for the prior assessment period is less than 2 percent, the total base assessment rates after adjustments for established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be as prescribed in the schedule in the following table:

TABLE 2 TO PARAGRAPH (a)(2) INTRODUCTORY TEXT—TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS) ¹ BEGINNING THE FIRST ASSESSMENT PERIOD AFTER DECEMBER 31, 2022, AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS THROUGH THE ASSESSMENT PERIOD ENDING [THE QUARTER PRIOR TO THE QUARTER DURING WHICH A FINAL RULE BECOMES EFFECTIVE], WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT ²

	Established small institutions			Large & highly complex institutions
	CAMELS composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	5 to 18	8 to 32	18 to 32	5 to 32
Unsecured Debt Adjustment	– 5 to 0	– 5 to 0	– 5 to 0	– 5 to 0
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10
Total Base Assessment Rate	2.5 to 18	4 to 32	13 to 32	2.5 to 42

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS composite 1- and 2-rated established small institutions total base assessment rate schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 2.5 to 18 basis points.

(ii) *CAMELS composite 3-rated established small institutions total base assessment rate schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 4 to 32 basis points.

(iii) *CAMELS composite 4- and 5-rated established small institutions total base assessment rate schedule.* The

annual total base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 13 to 32 basis points.

(iv) *Large and highly complex institutions total base assessment rate schedule.* The annual total base assessment rates for all large and highly complex institutions shall range from 2.5 to 42 basis points.

(b) Assessment rate schedules for established small institutions and large and highly complex institutions beginning [the quarter in which a final rule becomes effective], where the reserve ratio of the DIF as of the end of

the prior assessment period is less than 2 percent.

(1) *Initial base assessment rate schedule for established small institutions and large and highly complex institutions.* Beginning [the quarter in which a final rule becomes effective], where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent, the initial base assessment rate for established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be the rate prescribed in the schedule in the following table:

TABLE 3 TO PARAGRAPH (b)(1) INTRODUCTORY TEXT—INITIAL BASE ASSESSMENT RATE SCHEDULE BEGINNING [THE QUARTER IN WHICH A FINAL RULE BECOMES EFFECTIVE], WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT ¹

	Established small institutions			Large & highly complex institutions
	CAMELS composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	3 to 16	6 to 30	16 to 30	4 to 31

¹ All amounts for all risk categories are in basis points annually. Initial base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS composite 1- and 2-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 3 to 16 basis points.

(ii) *CAMELS composite 3-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 6 to 30 basis points.

(iii) *CAMELS composite 4- and 5-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 16 to 30 basis points.

(iv) *Large and highly complex institutions initial base assessment rate schedule.* The annual initial base assessment rates for all large and highly complex institutions shall range from 4 to 31 basis points.

(2) *Total base assessment rate schedule after adjustments.* Beginning [the quarter in which a final rule becomes effective], where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent, the total base assessment rates after adjustments for established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be as prescribed in the schedule in the following table:

TABLE 4 TO PARAGRAPH (b)(2) INTRODUCTORY TEXT—TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS)¹ BEGINNING [THE QUARTER IN WHICH A FINAL RULE BECOMES EFFECTIVE], WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT²

	Established small institutions			Large & highly complex institutions
	CAMELS composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	3 to 16	6 to 30	16 to 30	4 to 31
Resolution Readiness Adjustment	N/A	N/A	N/A	– 1 to 0
Unsecured Debt Adjustment	– 5 to 0	– 5 to 0	– 5 to 0	– 5 to 0
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10
Total Base Assessment Rate	1.5 to 16	3 to 30	11 to 30	1.5 to 41

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS composite 1- and 2-rated established small institutions total base assessment rate schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 1.5 to 16 basis points.

(ii) *CAMELS composite 3-rated established small institutions total base assessment rate schedule.* The annual

total base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 3 to 30 basis points.

(iii) *CAMELS composite 4- and 5-rated established small institutions total base assessment rate schedule.* The annual total base assessment rates for all established small institutions with a

CAMELS composite rating of 4 or 5 shall range from 11 to 30 basis points.

(iv) *Large and highly complex institutions total base assessment rate schedule.* The annual total base assessment rates for all large and highly complex institutions shall range from 1.5 to 41 basis points.

(c) * * *

(1) * * *

TABLE 5 TO PARAGRAPH (c)(1) INTRODUCTORY TEXT—INITIAL BASE ASSESSMENT RATE SCHEDULE IF THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS EQUAL TO OR GREATER THAN 2 PERCENT BUT LESS THAN 2.5 PERCENT¹

	Established small institutions			Large & highly complex institutions
	CAMELS composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	2 to 14	5 to 28	14 to 28	3 to 29

¹ All amounts for all risk categories are in basis points annually. Initial base rates that are not the minimum or maximum rate will vary between these rates.

(i) * * *

(ii) * * *

(iii) * * *

(iv) *Large and highly complex institutions initial base assessment rate schedule.* The annual initial base assessment rates for all large and highly

complex institutions shall range from 3 to 29 basis points.

(2) * * *

TABLE 6 TO PARAGRAPH (c)(2) INTRODUCTORY TEXT—TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS)¹ IF THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS EQUAL TO OR GREATER THAN 2 PERCENT BUT LESS THAN 2.5 PERCENT²

	Established small institutions			Large & highly complex institutions
	CAMELS composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	2 to 14	5 to 28	14 to 28	3 to 29
Resolution Readiness Adjustment	N/A	N/A	N/A	– 1 to 0
Unsecured Debt Adjustment	– 5 to 0	– 5 to 0	– 5 to 0	– 5 to 0
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10
Total Base Assessment Rate	1 to 14	2.5 to 28	9 to 28	1 to 39

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

- (i) * * * (iv) *Large and highly complex institutions total base assessment rate schedule.* The annual total base assessment rates for all large and highly complex institutions shall range from 1 to 39 basis points.
- (ii) * * * (d) * * *
- (iii) * * * (1) * * *

TABLE 7 TO PARAGRAPH (d)(1) INTRODUCTORY TEXT—INITIAL BASE ASSESSMENT RATE SCHEDULE IF THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS EQUAL TO OR GREATER THAN 2.5 PERCENT ¹

	Established small institutions			Large & highly complex institutions
	CAMELS composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	1 to 13	4 to 25	13 to 25	2 to 26

¹ All amounts for all risk categories are in basis points annually. Initial base rates that are not the minimum or maximum rate will vary between these rates.

- (i) * * * (iv) *Large and highly complex institutions initial base assessment rate schedule.* The annual initial base assessment rates for all large and highly complex institutions shall range from 2 to 26 basis points.
- (ii) * * * (2) * * *
- (iii) * * *

TABLE 8 TO PARAGRAPH (d)(2) INTRODUCTORY TEXT—TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS) ¹ IF THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS EQUAL TO OR GREATER THAN 2.5 PERCENT ²

	Established small institutions			Large & highly complex institutions
	CAMELS composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	1 to 13	4 to 25	13 to 25	2 to 26
Resolution Readiness Adjustment	N/A	N/A	N/A	– 1 to 0
Unsecured Debt Adjustment	– 5 to 0	– 5 to 0	– 5 to 0	– 5 to 0
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10
Total Base Assessment Rate	0.5 to 13	2 to 25	8 to 25	0.5 to 36

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

- (i) * * *
- (ii) * * *
- (iii) * * *

(iv) *Large and highly complex institutions total base assessment rate schedule.* The annual total base assessment rates for all large and highly complex institutions shall range from 0.5 to 36 basis points.

(e) *Assessment rate schedules for new institutions and insured branches of foreign banks.*

(1) New depository institutions, as defined in § 327.8(j), shall be subject to the assessment rate schedules as follows:

(i) *Assessment rate schedules for new large and highly complex institutions after December 31, 2022, and through the assessment period ending [the quarter prior to the quarter during which a final rule becomes effective].* In

the first assessment period after December 31, 2022, and for all subsequent assessment periods through the assessment period ending [the quarter prior to the quarter during which a final rule becomes effective], new large and new highly complex institutions shall be subject to the initial and total base assessment rate schedules provided for in paragraph (a) of this section.

(ii) *Assessment rate schedules for new large and highly complex institutions beginning [the quarter in which a final rule becomes effective] and for all subsequent periods.* Beginning in [the quarter in which a final rule becomes effective] and for all subsequent assessment periods, new large and new highly complex institutions shall be subject to the initial and total base

assessment rate schedules provided for in paragraph (b) of this section.

(iii) *Assessment rate schedules for new small institutions beginning the first assessment period after December 31, 2022, and for all subsequent assessment periods through the assessment period ending [the quarter prior to the quarter during which a final rule becomes effective].*

(A) *Initial base assessment rate schedule for new small institutions.* In the first assessment period after December 31, 2022, and for all subsequent assessment periods through the assessment period ending [the quarter prior to the quarter during which a final rule becomes effective], the initial base assessment rate for a new small institution shall be the rate prescribed in the schedule in the following table:

TABLE 9 TO PARAGRAPH (e)(1)(iii)(A) INTRODUCTORY TEXT—INITIAL BASE ASSESSMENT RATE SCHEDULE BEGINNING THE FIRST ASSESSMENT PERIOD AFTER DECEMBER 31, 2022 AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS THROUGH THE ASSESSMENT PERIOD ENDING [THE QUARTER PRIOR TO THE QUARTER DURING WHICH A FINAL RULE BECOMES EFFECTIVE]¹

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
Initial Assessment Rate	9	14	21	32

¹ All amounts for all risk categories are in basis points annually.

(1) *Risk category I initial base assessment rate schedule.* The annual initial base assessment rates for all new small institutions in Risk Category I shall be 9 basis points.

(2) *Risk category II, III, and IV initial base assessment rate schedule.* The annual initial base assessment rates for

all new small institutions in Risk Categories II, III, and IV shall be 14, 21, and 32 basis points, respectively.

(B) *Total base assessment rate schedule for new small institutions.* In the first assessment period after December 31, 2022, and for all subsequent assessment periods through

the assessment period ending [the quarter prior to the quarter during which a final rule becomes effective], the total base assessment rates after adjustments for a new small institution shall be the rate prescribed in the schedule in the following table:

TABLE 10 TO PARAGRAPH (e)(1)(iii)(B) INTRODUCTORY TEXT—TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS)¹ BEGINNING THE FIRST ASSESSMENT PERIOD AFTER DECEMBER 31, 2022, AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS THROUGH THE ASSESSMENT PERIOD ENDING [THE QUARTER PRIOR TO THE QUARTER DURING WHICH A FINAL RULE BECOMES EFFECTIVE]²

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
Initial Assessment Rate	9	14	21	32
Brokered Deposit Adjustment (added)	N/A	0 to 10	0 to 10	0 to 10
Total Base Assessment Rate	9	14 to 24	21 to 31	32 to 42

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

(1) *Risk category I total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category I shall be 9 basis points.

(2) *Risk category II total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category II shall range from 14 to 24 basis points.

(3) *Risk category III total assessment rate schedule.* The annual total base assessment rates for all new small

institutions in Risk Category III shall range from 21 to 31 basis points.

(4) *Risk category IV total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category IV shall range from 32 to 42 basis points.

(iv) *Assessment rate schedules for new small institutions beginning the [quarter in which a final rule becomes effective] and for all subsequent assessment periods—*

(A) *Initial base assessment rate schedule for new small institutions.* Beginning in [the quarter in which a final rule becomes effective] and for all subsequent assessment periods, the initial base assessment rate for a new small institution shall be the rate prescribed in the schedule in the following table, even if the reserve ratio equals or exceeds 2 percent or 2.5 percent:

TABLE 11 TO PARAGRAPH (e)(1)(iv)(A) INTRODUCTORY TEXT—INITIAL BASE ASSESSMENT RATE SCHEDULE BEGINNING THE FIRST ASSESSMENT PERIOD [IN THE QUARTER IN WHICH A FINAL RULE BECOMES EFFECTIVE] AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS¹

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
Initial Assessment Rate	7	12	19	30

¹ All amounts for all risk categories are in basis points annually.

(1) *Risk category I initial base assessment rate schedule.* The annual initial base assessment rates for all new small institutions in Risk Category I shall be 7 basis points.

(2) *Risk category II, III, and IV initial base assessment rate schedule.* The annual initial base assessment rates for

all new small institutions in Risk Categories II, III, and IV shall be 12, 19, and 30 basis points, respectively.

(B) *Total base assessment rate schedule for new small institutions.* Beginning in [the quarter in which a final rule becomes effective] and for all subsequent assessment periods, the total

base assessment rates after adjustments for a new small institution shall be the rate prescribed in the schedule in the following table, even if the reserve ratio equals or exceeds 2 percent or 2.5 percent:

TABLE 12 TO PARAGRAPH (e)(1)(iv)(B) INTRODUCTORY TEXT—TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS) ¹ BEGINNING [THE QUARTER IN WHICH A FINAL RULE BECOMES EFFECTIVE] AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS ²

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
Initial Assessment Rate	7	12	19	30
Brokered Deposit Adjustment (added)	N/A	0 to 10	0 to 10	0 to 10
Total Base Assessment Rate	7	12 to 22	19 to 29	30 to 40

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

(1) *Risk category I total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category I shall be 7 basis points.

(2) *Risk category II total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category II shall range from 12 to 22 basis points.

(3) *Risk category III total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category III shall range from 19 to 29 basis points.

(4) *Risk category IV total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category IV shall range from 30 to 40 basis points.

(2) *Insured branches of foreign banks—*

(i) *Beginning the first assessment period after December 31, 2022, and for all subsequent assessment periods through the assessment period ending [the quarter prior to the quarter during which a final rule becomes effective], where the reserve ratio as of the end of the prior assessment period is less than*

2 percent. In the first assessment period after December 31, 2022, and for all subsequent assessment periods through the assessment period ending [the quarter prior to the quarter during which a final rule becomes effective], where the reserve ratio as of the end of the prior assessment period is less than 2 percent, the initial and total base assessment rates for an insured branch of a foreign bank, except as provided in paragraph (f) of this section, shall be the rate prescribed in the schedule in the following table:

TABLE 13 TO PARAGRAPH (e)(2)(i) INTRODUCTORY TEXT—INITIAL AND TOTAL BASE ASSESSMENT RATE SCHEDULE ¹ BEGINNING THE FIRST ASSESSMENT PERIOD AFTER DECEMBER 31, 2022, AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS THROUGH THE ASSESSMENT PERIOD ENDING [THE QUARTER PRIOR TO THE QUARTER DURING WHICH A FINAL RULE BECOMES EFFECTIVE], WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT ²

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
Initial and Total Assessment Rate	5 to 9	14	21	32

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Initial and total base rates that are not the minimum or maximum rate will vary between these rates.

(A) *Risk category I initial and total base assessment rate schedule.* The annual initial and total base assessment rates for an insured branch of a foreign bank in Risk Category I shall range from 5 to 9 basis points.

(B) *Risk category II, III, and IV initial and total base assessment rate schedule.* The annual initial and total base assessment rates for Risk Categories II,

III, and IV shall be 14, 21, and 32 basis points, respectively.

(C) * * *

(ii) *Assessment rate schedule for insured branches of foreign banks beginning [the quarter in which a final rule becomes effective], where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent.* Beginning [the quarter in

which a final rule becomes effective], where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent, the initial and total base assessment rates for an insured branch of a foreign bank, except as provided in paragraph (f) of this section, shall be the rate prescribed in the schedule in the following table:

TABLE 14 TO PARAGRAPH (e)(2)(ii) INTRODUCTORY TEXT—INITIAL AND TOTAL BASE ASSESSMENT RATE SCHEDULE ¹ BEGINNING [THE QUARTER IN WHICH A FINAL RULE BECOMES EFFECTIVE], WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT ²

	Risk category I	Risk category II	Risk category III	Risk category IV
Initial and Total Assessment Rate	3 to 7	12	19	30

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Initial and total base rates that are not the minimum or maximum rate will vary between these rates.

(A) *Risk category I initial and total base assessment rate schedule.* The annual initial and total base assessment rates for an insured branch of a foreign bank in Risk Category I shall range from 3 to 7 basis points.

(B) *Risk category II, III, and IV initial and total base assessment rate schedule.* The annual initial and total base assessment rates for Risk Categories II, III, and IV shall be 12, 19, and 30 basis points, respectively.

* * * * *

■ 5. Revise § 327.11 to read as follows:

§ 327.11 Assessments thresholds indexing.

(a) *Methodology.* The dollar thresholds specified in paragraph (c) of this section shall be adjusted by multiplying the baseline threshold value for the thresholds specified in paragraph (c) of this section by one plus the cumulative percent change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured from [the effective date of this rule], as further described in paragraph (b) of this section, and shall be rounded in accordance with paragraph (d) of this section.

(b) *Frequency—*

(1) *In general.* Except as otherwise provided in paragraph (b)(2) or (3) of this section, the adjustments described in paragraph (a) of this section shall be effective on October 1 following each consecutive four-year period ending August 31, and using the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers as of August 31 of that year.

(2) *First adjustment.* The first adjustment described in paragraph (a) of this section, which shall be effective on October 1, 2029, shall be made using one plus the cumulative percent change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers through August 31, 2029.

(3) *Periods of negative inflation.* Notwithstanding paragraph (b)(1) or (2) of this section, if an adjustment of dollar thresholds using the cumulative percent change of the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers from the effective date of this rule or the most recent adjustment, as applicable, would not result in an increase from the current dollar thresholds, no adjustment will be made pursuant to paragraph (a) of this section.

(c) *Specified thresholds.* The thresholds in the following sections shall be adjusted in accordance with paragraph (a) of this section:

(1) § 327.8(e), baseline threshold value \$30 billion as of October 1, 2029; and

(2) § 327.8(f), baseline threshold value \$30 billion as of October 1, 2029;

(d) *Rounding.* When adjusting thresholds under this section, each threshold shall be rounded to the nearest number with two significant digits.

(e) *Effective date of threshold adjustments.* The FDIC shall announce the thresholds adjusted in accordance with this section by publishing in the **Federal Register** a final rule without notice and comment. Such adjusted thresholds shall be effective on October 1 of the year during which an adjustment is made.

(f) *Failure to publish final rule in Federal Register.* In the event, for any reason, a final rule is not published in the **Federal Register** in a year in which an adjustment is made under this section, the thresholds specified in paragraph (c) of this section will adjust as provided in this section and be effective on October 1, notwithstanding the lack of a final rule published in the **Federal Register**.

§ 327.12 [Removed and Reserved]

■ 6. Remove and reserve § 327.12.

■ 7. Amend § 327.16 as follows:

■ a. Revise paragraphs (a)(1)(i) and (d)(4)(ii);

■ b. Revise paragraph (e)(1)(ii);

■ c. Add new paragraph (e)(4); and

■ d. Remove and reserve paragraph (f).

The revisions and additions read as follows:

§ 327.16 Assessment pricing methods—beginning the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent.

* * * * *

(a) * * *

(1) * * *

(i) *Uniform amount.* Except as adjusted for the actual assessment rates set by the Board under § 327.10(f), the uniform amount shall be:

(A) 9.352 whenever the assessment rate schedule set forth in § 327.10(a) is in effect;

(B) 7.352 whenever the assessment rate schedule set forth in § 327.10(b) is in effect;

(C) 6.188 whenever the assessment rate schedule set forth in § 327.10(c) is in effect; or

(D) 4.870 whenever the assessment rate schedule set forth in § 327.10(d) is in effect.

* * * * *

(d) * * *

(4) * * *

(ii) *Uniform amount.* Except as adjusted for the actual assessment rates set by the Board under § 327.10(f), the uniform amount for all insured branches of foreign banks shall be:

(A) – 3.127 whenever the assessment rate schedule set forth in § 327.10(a) is in effect;

(B) – 5.127 whenever the assessment rate schedule set forth in § 327.10(b) is in effect;

(C) – 6.127 whenever the assessment rate schedule set forth in § 327.10(c) is in effect; or

(D) – 7.127 whenever the assessment rate schedule set forth in § 327.10(d) is in effect.

* * * * *

(e) * * *

(1) * * *

(ii) *Limitation.* No unsecured debt adjustment for any institution shall exceed the lesser of 5 basis points or 50 percent of the institution's initial base assessment rate less any applicable resolution readiness adjustment.

(iii) * * *

(2) * * *

(3) * * *

(4) *Resolution readiness adjustment.* All large institutions and all highly complex institutions (including new large and new highly complex institutions) shall be subject to the resolution readiness adjustment under § 327.18.

(f) [Reserved]

* * * * *

■ 8. Amend § 327.17(e) by removing the last sentence starting with the word “Any” and ending with “§ 327.16(f).”

■ 9. Add § 327.18 to read as follows:

§ 327.18 Resolution Readiness Adjustment for Large Institutions and Highly Complex Institutions.

(a) *Scope.* This section applies to all large institutions as defined in § 327.8(f) and all highly complex institutions as defined in § 327.8(g).

(b) *Definitions.*

(1) *Data access adjustment* means a 0.5 basis point downward adjustment applied to a large or highly complex institution's initial base assessment rate.

(2) *Key depositors* means an institution's depositors that hold or control the largest deposits (whether in one account or multiple accounts) that collectively are material to one or more business segments.

(3) *Key personnel* has the same meaning as in § 360.10(b) of this chapter, regardless of whether an institution is subject to § 360.10 of this chapter.

(4) *Material entity* has the same meaning as in § 360.10(b) of this chapter, regardless of whether an

institution is subject to § 360.10 of this chapter.

(5) *Resolution readiness adjustment* means the sum of the virtual data room adjustment and the data access adjustment.

(6) *Virtual data room* means an online repository where information pertinent to a sale or disposition of an institution is maintained in a secure and confidential manner to facilitate, whether by the institution or the FDIC, such sale or disposition to one or more third-party acquirers.

(7) *Virtual data room adjustment* means a 0.5 basis point downward adjustment applied to a large or highly complex institution's initial base assessment rate.

(c) *Resolution readiness adjustment.* The FDIC will apply an adjustment to a large or highly complex institution's initial base assessment rate under § 327.10 as provided in this section.

(d) *Electing to participate in resolution readiness adjustment.*

(1) A large or highly complex institution may submit to the FDIC a notice of election to participate in the resolution readiness adjustment. In the notice, an institution may elect to participate in the virtual data room component by providing the information described in paragraph (d)(2)(i) of this section, the data access component by providing the information described in paragraph (d)(2)(ii) of this section, or both. An institution may submit a notice for each component at different times.

(2) A notice of election must contain the following:

(i) To elect the virtual data room component:

(A) Electing institution's name, charter/certificate number, and mailing address;

(B) Contact person including name, title, employer, mailing address, email address, and telephone number;

(C) Agreement that the institution will participate in a test of the institution's capabilities to populate a virtual data room as provided by paragraph (e)(2) of this section;

(D) Acknowledgment that any costs required to obtain needed data, information, and other materials to participate in the test under paragraph (e)(2) of this section and to provide and facilitate access to data, documents, and other materials specified by paragraph (e)(1) of this section will be borne by the institution; and

(E) A list of key personnel (including those employed by third parties) needed to support the institution's efforts to participate in a test of its capabilities to populate a virtual data room as

provided by paragraph (e)(2) of this section.

(ii) To elect the data access component:

(A) Agreement to provide and facilitate access to data, documents, and other materials specified in paragraph (f)(1) of this section, including that the institution authorizes the FDIC to communicate with and request such data, information, and other materials from third-party vendors;

(B) Acknowledgment that any costs required to obtain needed data, information, and other materials to participate in the engagement under paragraph (f)(2) of this section and to provide and facilitate access to data, documents, and other materials specified by paragraph (f)(1) of this section will be borne by the institution;

(C) Certification that the institution may be liable for an assessment reimbursement under paragraph (f)(4) of this section;

(D) A complete list of all systems and applications maintained by the institution that serve as core data processors for deposit and loan data and the institution's general ledger;

(E) A complete list of all systems and applications maintained by third-party vendors that serve as core data processors for deposit and loan data and the institution's general ledger; and

(F) A list of key personnel (including those employed by third-party vendors) needed to support and operate each system and application identified pursuant to paragraphs (d)(2)(ii)(D) and (E) of this section identified by name, title, employer, telephone number, and email address.

(3) *Timing of election and effect of electing to participate in data access component.*

(i) An institution that submits a notice of election for the data access component within 30 days of [the effective date of rule], will receive the data access adjustment beginning the next quarterly assessment period.

(ii) An institution that is a large or highly complex institution on [the effective date of rule] but does not submit a notice of election for the data access component within 30 days of [the effective date of rule] may submit a notice within [four years of the effective date of rule] and will receive the data access adjustment beginning two quarterly assessment periods after submission.

(iii) An institution that becomes a large or highly complex institution after [the effective date of rule] that submits a notice of election for the data access component will receive the data access adjustment beginning the quarterly

assessment period after submitting the notice of election.

(iv) An institution that is large or highly complex as of [the effective date of the rule] that submits a notice of election for the data access component after the date that is four years after [the effective date of the rule] will receive the data access adjustment beginning the quarterly assessment period after submitting a notice of election.

(v) If the notice of election for the data access component is materially inaccurate or the institution fails to provide to the FDIC information required under paragraph (d)(2)(ii) of this section, the FDIC may provide notice to the institution that it is no longer eligible for the data access adjustment and that the adjustment will be removed the next quarterly assessment period and the institution would be subject to reimbursement under paragraph (f)(4) of this section. To resume eligibility for the data access adjustment, the institution must submit another notice of election pursuant to paragraph (d)(2)(ii) of this section.

(4) *Timing of election to participate in virtual data room component.*

(i) An institution that submits a notice of election for the virtual data room component within 30 days of [the effective date of rule] will have the opportunity to participate in the virtual data room capabilities test within one year, as described in paragraph (e) of this section.

(ii) An institution that submits a notice of election for the virtual data room component more than 30 days after [the effective date of the rule] will not be able to participate in the virtual data room test until all institutions that submitted a notice within that 30 day period have been given the opportunity to participate in the virtual data room capabilities test.

(e) *Virtual data room capabilities test.*

(1) *Testing component: required data, documents, and other material.* After submitting its notice of election pursuant to paragraph (d)(2)(i) of this section, the institution must demonstrate its ability to populate a virtual data room with the following:

(i) Key financial information, including balance sheet (both consolidated and unconsolidated), income statement, annual and interim financial statements, general ledger, and other relevant financial information;

(ii) Deposit data and information, including deposit tapes and data dictionary, and a report regarding key depositors;

(iii) Loan and lending operations information, including loan tapes and data dictionary;

(iv) A sample of imaged loan files sufficient for a potential bidder to conduct due diligence to inform a potential bid;

(v) Securities and investment portfolio information, including securities tapes and data dictionary;

(vi) A corporate organizational chart showing all material entities, as well as a description of each material entity's operations and role within the institution's operations, and licensing and regulatory information for each material entity;

(vii) A list of key personnel identified by title, function, physical location, employing legal entity, and business line or business segment the individual supports, and if an individual is dual hatted;

(viii) A list of material third-party contracts and a description of what services or business lines each contract supports;

(ix) Recent internal risk management reports, including assessments concerning key financial and regulatory risks; and

(x) Other information that the institution believes is necessary to facilitate a rapid and effective due diligence process for the sale of the institution, as well as data or information requested by the FDIC in a notice described in paragraph (e)(2) of this section.

(2) *Testing component: process.*

(i) After an institution submits a notice of election pursuant to paragraph (d)(2)(i) of this section, the FDIC will notify the institution when the institution will participate in a test of its capabilities to populate a virtual data room hosted by the FDIC with data, information, and other materials specified by paragraph (e)(1) of this section. The FDIC may notify the institution that it need not populate a data room with certain data, information, or other materials specified by paragraph (e)(1) of this section.

(ii) The FDIC will provide written notice of an institution's date for a virtual data room capabilities test no less than four weeks before the test date. Upon providing such written notice, the FDIC can adjust the test date to a date that provides the institution a reasonable amount of notice.

(3) *Testing component: evaluation criteria and notice of test results.*

(i) The institution will be deemed to have demonstrated its capabilities to populate a virtual data room if:

(A) All data, information, and other materials specified by paragraph (e)(1) of this section are uploaded to the virtual data room specified by the FDIC

no later than 48 hours after the test begins;

(B) The FDIC, after conducting a review and examination of the virtual data room, determines that the data, information, and other materials uploaded are sufficient for a potential bidder to conduct adequate due diligence to inform a potential bid. Among other things, the financial information in materials specified in paragraph (e)(1)(i) of this section should be reconcilable against the general ledger; and

(C) The institution provides the FDIC such information and access to such personnel of the institution as the FDIC in its sole discretion determines is relevant to properly evaluate the data, information, and other materials uploaded to the virtual data room specified by the FDIC, if needed.

(ii) Within an amount of time determined by the FDIC to be commensurate with the nature of the data, information, and other materials provided pursuant to paragraph (e)(1) of this section, the FDIC will notify the institution in writing concerning the results of the test. Such notice will:

(A) State that the institution has demonstrated its capabilities to populate a virtual data room; or

(B) State the institution is presently ineligible for the virtual data room adjustment, and that to be eligible for the virtual data room adjustment the institution must participate in another test at a future date to be determined by the FDIC pursuant to paragraph (e)(2) of this section.

(4) *Effect of FDIC notifying an institution it has demonstrated its readiness to populate a virtual data room on virtual data room adjustment.* After receiving written notice pursuant to paragraph (e)(3)(ii)(A) of this section stating that the institution demonstrated its capabilities to populate a virtual data room:

(i) *Application of virtual data room adjustment.* The FDIC will apply the virtual data room adjustment beginning the next quarterly assessment period after the institution receives written notice under paragraph (e)(3)(ii)(A) of this section, but in no event will the FDIC apply the virtual data room adjustment earlier than the end of the 12 month period following the [effective date of this section].

(ii) *Retesting.* The institution will be subject to periodic retesting by the FDIC of the institution's capabilities to populate a virtual data room with data, information, and other materials specified by paragraph (e)(1) of this section. The processes in paragraphs (e)(2) and (3) of this section will apply

to such retesting. Retesting following a successful test will occur every three years, unless the institution experiences a material change that could impact its ability to populate a data room, such as undergoing a merger, which may result in retesting sooner, or unless the FDIC extends the timeframe at its discretion. If the institution declines to participate in retesting, the virtual data room adjustment will be removed the next quarterly assessment period.

(f) *Data access capabilities.*

(1) *Required data access.* After submitting its notice of election pursuant to paragraph (d)(2)(ii) of this section, the institution must provide, or facilitate the provision to the FDIC of, the following:

(i) The institution's consolidated and unconsolidated ledger;

(ii) Core data regarding the institution's deposit portfolio, including:

(A) Depositor and beneficiary information;

(B) Deposit account title;

(C) Deposit account type;

(D) Deposit account balances, including principal and accrued interest;

(E) Deposit account status;

(F) Deposit account rate terms; and

(G) Any other information about material characteristics of deposits;

(iii) Core data concerning the institution's loan portfolio, including:

(A) Borrower, co-borrower, and guarantor information;

(B) Loan balances, including charge offs;

(C) Participation information;

(D) Loan status;

(E) Loan terms;

(F) Loan type;

(G) Collateral associated with each loan; and

(H) Any other information about material characteristics of loans; and

(iv) A list of key personnel (including those employed by third-party vendors) needed to support and operate each system and application used to produce data, information, and other materials provided pursuant to paragraph (f)(1)(i) through (iii) of this section identified by name, title, employer, telephone number, and email address.

(2) *Data access engagement.*

(i) After receiving an institution's notice of election pursuant to paragraph (d)(2)(ii) of this section, the FDIC will notify the institution in writing when the institution will begin engaging with the FDIC to provide or make available to the FDIC the data, information, and other materials specified by paragraph (f)(1) of this section. The FDIC will provide such written notice no less than

four weeks before the beginning of the engagement. Upon providing such written notice, the FDIC can adjust the beginning of the engagement to a date that provides the institution a reasonable amount of notice.

(ii) During the engagement specified in this paragraph (f)(2), the institution will provide or facilitate the provision to the FDIC the data, documents, and other information specified in paragraph (f)(1) of this section. Failure to provide such data, documents, and other information may result in the FDIC notifying the institution that it is no longer eligible for the data access adjustment, that the adjustment will be removed the next quarterly assessment period, and that the institution will be subject to reimbursement under paragraph (f)(4) of this section.

(iii) During the engagement specified in this paragraph (f)(2), the institution will provide the FDIC such information and access to such personnel of the institution and any third-party vendor as the FDIC in its discretion determines is relevant to properly evaluate the data, information, and other materials specified in paragraph (f)(1) of this section. Failure to provide such information and access to personnel may result in the FDIC notifying the institution that it is no longer eligible for the data access adjustment, that the adjustment will be removed the next quarterly assessment period, and that the institution will be subject to reimbursement under paragraph (f)(4) of this section.

(iv) The FDIC will provide the institution written notice upon completion of the engagement specified in this paragraph (f)(2).

(3) *Ongoing data access.* Upon an institution receiving written notice pursuant to paragraph (f)(2)(iv) of this section:

(i) *Notice of material change.* If an institution experiences a change in any internal data system or data service provider that would materially affect the institution's ability to provide or facilitate the provision of access to the FDIC of data, information, or other materials specified in paragraph (f)(1) of

this section, the institution must provide the FDIC a written notice of material change within 30 days. The notice of material change must explain the nature of the change, and how it affects the institution's ability to provide or facilitate the provision of access of such data, information, or other materials. If an institution does not submit a notice when required to under this paragraph, the FDIC may provide written notice that the institution is not eligible for the data access adjustment, that the adjustment will be removed the next quarterly assessment period, and that the institution is be liable for reimbursement pursuant to paragraph (f)(4) of this section if multiple quarterly assessment periods have elapsed since the material change occurred.

(ii) *Reengagement.* The institution will be subject to periodic reengagement with the FDIC to provide or facilitate the provision of access to data, information, and other materials specified in paragraph (f)(1) of this section. The processes in paragraph (f)(2) of this section will apply to such reengagement. Reengagement will occur every seven years, unless there is a material change, which may result in reengagement occurring sooner, or unless the FDIC extends the timeline at its discretion. If the institution declines to participate in reengagement, the data access adjustment will be removed the next quarterly assessment period.

(4) *Assessments reimbursement for receiving data access adjustment without providing data access.* If the FDIC has applied the data access adjustment to an institution that subsequently receives notice under paragraph (d)(3)(v) of this section or paragraphs (f)(2)(ii), (f)(2)(iii), or (f)(3)(i) of this section that it is required to provide the FDIC reimbursement pursuant to this paragraph (f)(4), the institution will be required to provide reimbursement beginning the next quarterly assessment period. The FDIC will notify the institution, in writing, that it is subject to such reimbursement.

(i) *Reimbursement amount.* The reimbursement amount will be equal to

the difference of the total amount of quarterly assessments the institution would have paid without the data access adjustment for each quarter it received the adjustment and the total amount that it paid with the data access adjustment.

(ii) *Reimbursement period.* The reimbursement amount will be invoiced to the institution with the amount evenly divided across the next eight consecutive quarterly assessment periods following the written notice issued pursuant to this paragraph (f)(4).

(iii) *Invoicing and payment of reimbursement.* For each quarterly assessment period an institution is subject to the assessment reimbursement, the FDIC will advise the institution of the amount and calculation of the reimbursement at the same time as the institution's quarterly certified statement invoice under § 327.6. The institution will pay the reimbursement in compliance with and subject to the provisions of § 327.3. The payment due date will be the date provided in § 327.3(b)(2) for the institution's quarterly certified statement invoice for the calendar quarter in which the reimbursement is imposed.

(iv) *Not an underpayment.* An institution required to pay an assessment reimbursement under this paragraph (f)(4) is not considered to have made an underpayment of assessments in the quarters the institution received the data access adjustment.

Subpart B—[Removed and Reserved]

■ 10. Remove and reserve subpart B, consisting of §§ 327.30 through 327.36.

* * * * *

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on June 26, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026–13192 Filed 6–29–26; 8:45 am]

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FEDERAL REGISTER

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June 30, 2026

Part V

The President

Executive Order 14414—Advancing Regenerative Agriculture and
Strengthening American Farm Resilience

Presidential Documents

Title 3—

Executive Order 14414 of June 25, 2026

The President

Advancing Regenerative Agriculture and Strengthening American Farm Resilience

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. *Purpose and Policy.* Executive Order 14212 of February 13, 2025 (Establishing the President's Make America Healthy Again Commission) established the Make America Healthy Again (MAHA) Commission, with an initial mission to address the childhood chronic disease crisis, and directed the involved executive departments and agencies to work with farmers to ensure that United States food is the healthiest, most abundant, and most affordable in the world. American farmers and ranchers are essential partners in achieving the MAHA agenda, and the Department of Health and Human Services (HHS), the Department of Agriculture (USDA), and the Environmental Protection Agency (EPA) have already made a historic investment of over \$1 billion in accelerating farm modernization and long-term food supply security.

American farmers and ranchers have always prioritized care of their land and are increasingly interested in adopting innovative conservation farming practices like regenerative agriculture. These practices strengthen soil health, lower input costs, improve chemical efficiency to reduce overall use, improve farm profitability, maintain yields, increase market value, expand access to new markets, and strengthen rural economies. My Administration is committed to further actions that support farmers and ranchers as they seek to adopt these practices.

Therefore, it is the policy of the United States to promote continued advances in precision agriculture technologies; significantly increase Federal investment in regenerative agriculture practices, research, and education; and spur private-sector innovation in farm modernization by reducing red tape and strengthening public-private partnerships. These actions empower American farmers and ranchers with the additional mechanisms to ensure a healthy, abundant, and affordable food supply for the American people.

Sec. 2. *Ensuring Access to Modern Products and Practices and Accurate Labeling.* (a) The Administrator of the EPA (Administrator) shall prioritize registration actions related to substances that can be used as alternatives to older active ingredients; *provided*, that the Administrator shall undertake all registration actions, including human health and ecological risk assessments, as expeditiously as possible as required by statute.

(b) The Administrator shall, consistent with existing statute and regulations, review all available data for registered pre-harvest desiccation uses and ensure alignment with all applicable safety and environmental standards, including accurate labeling of chemical products.

(c) The Secretary of Agriculture, the Secretary of HHS, and the Administrator shall expedite development of a research and evaluation framework for cumulative exposure across chemical classes that are regulated by statute in the food supply. This research shall focus on using and developing New Approach Methodologies to promote scientific understanding of human health and environmental risks of chemical contaminants in the food supply, and addressing these risks for greater food security and safety. Nothing in this paragraph shall be construed to direct the Secretary of Agriculture,

the Secretary of HHS, or the Administrator to take any regulatory action beyond current statutory requirements.

(d) The Secretary of HHS, in consultation with the USDA Office of Pest Management Policy and EPA Office of Pesticide Programs, shall issue a grand prize challenge from the National Institutes of Health for researchers to identify creative solutions for evaluating the exposure, diagnosis, and treatments of cumulative chemical exposures on individual health. The Secretary of HHS shall, through the Advanced Research Projects Agency for Health, also prioritize research to identify new, innovative, and cost-effective technologies that reduce reliance on conventional chemical crop protection tools in order to reduce risks to human health.

Sec. 3. *Promoting Regenerative Agriculture Practices and Enhancing Farmer Prosperity.* (a) The Secretary of Agriculture shall maximize the funding of the current Regenerative Pilot Program and evaluate ways to expand the reach of the program, including by sharing the results of the program with a broad audience of stakeholders. This expansion shall include using existing authorities to create public-private partnerships that can bring new capacity to producers interested in adopting regenerative practices.

Sec. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

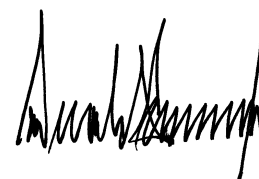
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The costs for publication of this order shall be borne by the Department of Health and Human Services.



THE WHITE HOUSE,
June 25, 2026.

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